

Title 18

BUSINESSES AND PROFESSIONS

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Chapter 18.04 RCW ACCOUNTANCY

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18.04.015 Purpose. (1) It is the policy of this state and the purpose of this chapter:

(a) To promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private or governmental; and

(b) To protect the public interest by requiring that:

(i) Persons who hold themselves out as licensees or certificate holders conduct themselves in a competent, ethical, and professional manner;

(ii) A public authority be established that is competent to prescribe and assess the qualifications of certified public accountants, including certificate holders who are not licensed for the practice of public accounting;

(iii) Persons other than licensees refrain from using the words "audit," "review," and "compilation" when designating a report customarily prepared by someone knowledgeable in accounting;

(iv) A public authority be established to provide for consumer alerts and public protection information to be published regarding persons or firms who violate the provisions of chapter 294, Laws of 2001 or board rule and to provide general consumer protection information to the public; and

(v) The use of accounting titles likely to confuse the public be prohibited.

(2) The purpose of chapter 294, Laws of 2001 is to make revisions to chapter 234, Laws of 1983 and chapter 103, Laws of 1992 to: Fortify the public protection provisions of chapter 294, Laws of 2001; establish one set of qualifications to be a licensee; revise the regulations of certified public accountants; make revisions in the ownership of certified public accounting firms; assure to the greatest extent possible that certified public accountants from Washington state are substantially equivalent with certified public accountants in other states and can therefore perform the duties of certified public accountants in as many states and countries as possible; assure certified public accountants from other states and countries have met qualifications that are substantially equivalent to the certified public accountant qualifications of this state; and clarify the authority of the board of accountancy with respect to the activities of persons holding licenses and certificates under this chapter. It is not the intent of chapter 294, Laws of 2001 to in any way restrict or limit the activities of persons not holding licenses or certificates under this chapter except as otherwise specifically restricted or limited by chapter 234, Laws of 1983 and chapter 103, Laws of 1992.

(3) A purpose of chapter 103, Laws of 1992, revising provisions of chapter 234, Laws of 1983, is to clarify the authority of the board of accountancy with respect to the activities of persons holding certificates under this chapter. Furthermore, it is not the intent of chapter 103, Laws of 1992 to in any way restrict or limit the activities of persons not holding certificates under this chapter except as otherwise specifically restricted or limited by chapter 234, Laws of 1983. [2001 c 294 § 1; 1992 c 103 § 1; 1983 c 234 § 2.]

Additional notes found at www.leg.wa.gov

18.04.025 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Attest" means providing the following services:

(a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) Any review of a financial statement to be provided in accordance with the statements on standards for accounting and review services;

(c) Any engagement to be performed in accordance with the statements on standards for attestation engagements; and

(d) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(2) "Board" means the board of accountancy created by RCW 18.04.035.

(3) "Certificate" means a certificate as a certified public accountant issued prior to July 1, 2001, as authorized under the provisions of this chapter.

(4) "Certificate holder" means the holder of a certificate as a certified public accountant who has not become a licensee, has maintained CPE requirements, and who does not practice public accounting.

(5) "Certified public accountant" or "CPA" means a person holding a certified public accountant license or certificate.

(6) "Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that is presenting in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

(7) "CPE" means continuing professional education.

(8) "Firm" means a sole proprietorship, a corporation, or a partnership. "Firm" also means a limited liability company formed under chapter 25.15 RCW.

(9) "Holding out" means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person or firm that the person or firm holds a license under this chapter and that the person or firm offers to perform any professional services to the public as a licensee. "Holding out" shall not affect or limit a person or firm not required to hold a license under this chapter from engaging in practices identified in RCW 18.04.350.

(10) "Inactive" means the certificate is in an inactive status because a person who held a valid certificate before July 1, 2001, has not met the current requirements of licensure and has been granted inactive certificate holder status through an approval process established by the board.

(11) "Individual" means a living, human being.

(12) "License" means a license to practice public accountancy issued to an individual under this chapter, or a license issued to a firm under this chapter.

(13) "Licensee" means the holder of a license to practice public accountancy issued under this chapter.

(14) "Manager" means a manager of a limited liability company licensed as a firm under this chapter.

(15) "NASBA" means the national association of state boards of accountancy.

(16) "Peer review" means a study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, includ-

ing a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under subsection (20) of this section.

(17) "Person" means any individual, nongovernmental organization, or business entity regardless of legal form, including a sole proprietorship, firm, partnership, corporation, limited liability company, association, or not-for-profit organization, and including the sole proprietor, partners, members, and, as applied to corporations, the officers.

(18) "Practice of public accounting" means performing or offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "reports," or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. "Practice of public accounting" shall not include practices that are permitted under the provisions of RCW 18.04.350(10) by persons or firms not required to be licensed under this chapter.

(19) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

(20) "Quality assurance review" means a process established by and conducted at the direction of the board of study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

(21) "Report," when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in the practice of public accounting. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is involved in the practice of public accounting, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. "Report" does not include services referenced in RCW 18.04.350 (10) or (11) provided by persons not holding a license under this chapter as provided in RCW 18.04.350(14).

(22) "Review committee" means any person carrying out, administering or overseeing a peer review authorized by the reviewee.

(23) "Rule" means any rule adopted by the board under authority of this chapter.

(24) "Sole proprietorship" means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.

(25) "State" includes the states of the United States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands at such time as the board determines that the Commonwealth of the Northern Mariana Islands is issuing licenses under the substantially equivalent standards in RCW 18.04.350(2)(a). [2016 c 127 § 1; 2008 c 16 § 2; 2001 c 294 § 2; 1999 c 378 § 1; 1994 c 211 § 1401; 1992 c 103 § 2; 1986 c 295 § 1; 1983 c 234 § 3.]

Alphabetization—2008 c 16: "The code reviser shall alphabetize and renumber the definitions in RCW 18.04.025 and correct any references." [2008 c 16 § 7.]

Finding—Intent—2008 c 16: "The legislature finds the multiple state licensing and registering requirements for certified public accountants to be cumbersome and an unnecessary constraint on the consumers of professional certified public accountant services. In the majority of United States jurisdictions, certified public accountants are licensed based on substantially equivalent education, national exam, and experience requirements. Yet in order to serve their various client needs, certified public accountants must often delay service while they first spend countless hours and dollars to register with regulators in the jurisdictions of the client.

To clarify the legislative intent of chapter 294, Laws of 2001, reduce the administrative licensing burden on certified public accountants licensed in any substantially equivalent jurisdiction, and facilitate consumer choice, the legislature intends to eliminate the requirement for out-of-state certified public accountants to notify the Washington state board of accountancy of intent to practice and pay a fee; however, firms providing audit or opinion-type services would be required to be licensed in this state. The requirement for notification will be replaced with "consent to automatic jurisdiction," which clarifies the legal disciplinary authority of the Washington state board of accountancy over out-of-state certified public accountants practicing in Washington state. This allows the board to more efficiently protect consumers while facilitating practice mobility and consumer choice." [2008 c 16 § 1.]

Additional notes found at www.leg.wa.gov

18.04.035 Board of accountancy—Members—Terms—Vacancies—Removal. (1) There is created a board of accountancy for the state of Washington to be known as the Washington state board of accountancy. Effective June 30, 2001, the board shall consist of nine members appointed by the governor. Members of the board shall include six persons who have been licensed in this state continuously for the previous ten years. Three members shall be public members qualified to judge whether the qualifications, activities, and professional practice of those regulated under this chapter conform with standards to protect the public interest, including one public member qualified to represent the interests of clients of individuals and firms licensed under this chapter.

(2) The members of the board shall be appointed by the governor to a term of three years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of a member's term of office, the member shall continue to serve until a successor has been appointed and has assumed office. The governor shall remove from the board any member whose license to practice has been revoked or suspended and may, after hearing, remove any member of the board for neglect of duty or other just cause. No person who has served three successive complete terms is eligible for reappointment. Appointment to fill an unexpired term is not considered a complete term. In order to stagger their terms, of the two new appointments made to the board upon June 11, 1992, the first appointed member

shall serve a term of two years initially. [2004 c 159 § 1; 2001 c 294 § 3; 1992 c 103 § 3; 1986 c 295 § 2; 1983 c 234 § 4.]

Additional notes found at www.leg.wa.gov

18.04.045 Board—Officers and staff—Powers and duties. (1) The board shall annually elect a chair, a vice chair, and a secretary from its members.

(2) A majority of the board constitutes a quorum for the transaction of business.

(3) The board shall have a seal which shall be judicially noticed.

(4) The board shall keep records of its proceedings, and of any proceeding in court arising from or founded upon this chapter. Copies of these records certified as correct under the seal of the board are admissible in evidence as tending to prove the content of the records.

(5) The governor shall appoint an executive director of the board, who shall serve at the pleasure of the governor. The executive director may employ such personnel as is appropriate for carrying out the purposes of this chapter. The executive director shall hold a valid Washington license. The board may arrange for such volunteer assistance as it requires to perform its duties. Individuals or committees assisting the board constitute volunteers for purposes of chapter 4.92 RCW.

(6) The board shall file an annual report of its activities with the governor. The report shall include, but not be limited to, a statement of all receipts and disbursements. Upon request, the board shall mail a copy of each annual report to any member of the public.

(7) In making investigations concerning alleged violations of the provisions of this chapter and in all proceedings under RCW 18.04.295 or chapter 34.05 RCW, the board chair, or a member of the board, or a board designee acting in the chair's place, may administer oaths or affirmations to witnesses appearing before the board, subpoena witnesses and compel their attendance, take testimony, and require that documentary evidence be submitted.

(8) The board may review the publicly available professional work of licensees on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular licensee. If as a result of such review the board discovers reasonable grounds for a more specific investigation, the board may proceed under its investigative and disciplinary rules.

(9) The board may provide for consumer alerts and public protection information to be published regarding persons or firms who violate the provisions of this chapter or board rule and may provide general consumer protection information to the public.

(10) As provided in RCW 18.04.370, the board may enter into stipulated agreements and orders of assurance with persons who have violated the provisions of RCW 18.04.345 or certify the facts to the prosecuting attorney of the county in which such person resides for criminal prosecution. [2001 c 294 § 4; 1992 c 103 § 4; 1986 c 295 § 3; 1983 c 234 § 5.]

Additional notes found at www.leg.wa.gov

18.04.055 Board—Rules. The board may adopt and amend rules under chapter 34.05 RCW for the orderly conduct of its affairs. The board shall prescribe rules consistent with this chapter as necessary to implement this chapter. Included may be:

- (1) Rules of procedure to govern the conduct of matters before the board;
- (2) Rules of professional conduct for all licensees, certificate holders, and nonlicensee owners of licensed firms, in order to establish and maintain high standards of competence and ethics including rules dealing with independence, integrity, objectivity, and freedom from conflicts of interest;
- (3) Rules specifying actions and circumstances deemed to constitute holding oneself out as a licensee in connection with the practice of public accountancy;
- (4) Rules specifying the manner and circumstances of the use of the titles "certified public accountant" and "CPA," by holders of certificates who do not also hold licenses under this chapter;
- (5) Rules specifying the educational requirements to take the certified public accountant examination;
- (6) Rules designed to ensure that licensees' "reports" meet the definitional requirements for that term as specified in RCW 18.04.025;
- (7) Requirements for CPE to maintain or improve the professional competence of licensees as a condition to maintaining their license and certificate holders as a condition to maintaining their certificate under RCW 18.04.215;
- (8) Rules governing firms issuing or offering to issue reports using the title "certified public accountant" or "CPA" including, but not limited to, rules concerning their style, name, title, and affiliation with any other organization, and establishing reasonable practice and ethical standards to protect the public interest;
- (9) The board may by rule implement a quality assurance review program as a means to monitor licensees' quality of practice and compliance with professional standards. The board may exempt from such program, licensees who undergo periodic peer reviews in programs of the American Institute of Certified Public Accountants, NASBA, or other programs recognized and approved by the board;
- (10) The board may by rule require licensed firms to obtain professional liability insurance if in the board's discretion such insurance provides additional and necessary protection for the public;
- (11) Rules specifying the experience requirements in order to qualify for a license;
- (12) Rules specifying the requirements for certificate holders to qualify for a license under this chapter which must include provisions for meeting CPE and experience requirements prior to application for licensure;
- (13) Rules specifying the registration requirements, including ethics examination and fee requirements, for resident nonlicensee partners, shareholders, and managers of licensed firms;
- (14) Rules specifying the ethics CPE requirements for certificate holders and owners of licensed firms, including the process for reporting compliance with those requirements;
- (15) Rules specifying the experience and CPE requirements for licensees offering or issuing reports; and

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(16) Any other rule which the board finds necessary or appropriate to implement this chapter. [2016 c 127 § 2; 2001 c 294 § 5; 1992 c 103 § 5; 1986 c 295 § 4; 1983 c 234 § 6.]

Additional notes found at www.leg.wa.gov

18.04.065 Board—Fees—Disposition. The board shall set its fees at a level adequate to pay the costs of administering this chapter. All fees for licenses, registrations of nonlicensee partners, shareholders, and managers of licensed firms, renewals of licenses, renewals of registrations of nonlicensee partners, shareholders, and managers of licensed firms, renewals of certificates, reinstatements of lapsed licenses, reinstatements of lapsed certificates, reinstatements of lapsed registrations of nonlicensee partners, shareholders, and managers of licensed firms, practice privileges under RCW 18.04.350, and delinquent filings received under the authority of this chapter shall be deposited in the certified public accountants' account created by RCW 18.04.105. Appropriation from such account shall be made only for the cost of administering the provisions of this chapter or for the purpose of administering the certified public accounting scholarship program created in chapter 28B.123 RCW. [2015 c 215 § 6; 2001 c 294 § 6; 1992 c 103 § 6; 1983 c 234 § 24.]

Additional notes found at www.leg.wa.gov

18.04.080 Compensation and travel expenses of members. Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in the discharge of such duties in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 20; 1983 c 234 § 22; 1975-'76 2nd ex.s. c 34 § 25; 1949 c 226 § 7; Rem. Supp. 1949 § 8269-14.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.04.105 Issuance of license—Requirements—Examination—Fees—Certified public accountants' account—Valid certificates previously issued under chapter—Continuing professional education—Inactive certificates. (1) A license to practice public accounting shall be granted by the board to any person:

- (a) Who is of good character. Good character, for purposes of this section, means lack of a history of dishonest or felonious acts. The board may refuse to grant a license on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional and ethical responsibilities of a licensee and if the finding by the board of lack of good character is supported by a preponderance of evidence. When an applicant is found to be unqualified for a license because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board and a notice of the applicant's right of appeal;
- (b) Who has met the educational standards established by rule as the board determines to be appropriate;
- (c) Who has passed an examination;
- (d) Who has had one year of experience which is gained:

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(i) Through the use of accounting, issuing reports, management advisory, financial advisory, tax, tax advisory, or consulting skills;

(ii) While employed in government, industry, academia, or public practice; and

(iii) Meeting the competency requirements in a manner as determined by the board to be appropriate and established by board rule; and

(e) Who has paid appropriate fees as established by rule by the board.

(2) The examination described in subsection (1)(c) of this section shall test the applicant's knowledge of the subjects of accounting and auditing, and other related fields the board may specify by rule. The time for holding the examination is fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and taking the examination, including methods for grading examinations and determining a passing grade required of an applicant for a license. The board shall to the extent possible see to it that the grading of the examination, and the passing grades, are uniform with those applicable to all other states. The board may make use of all or a part of the uniform certified public accountant examination and advisory grading service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination as the board deems appropriate to assist it in performing its duties under this chapter. The board shall establish by rule provisions for transitioning to a new examination structure or to a new media for administering the examination.

(3) The board shall charge each applicant an examination fee for the initial examination or for reexamination. The applicable fee shall be paid by the person at the time he or she applies for examination, reexamination, or evaluation of educational qualifications. Fees for examination, reexamination, or evaluation of educational qualifications shall be determined by the board under chapter 18.04 RCW. There is established in the state treasury an account to be known as the certified public accountants' account. All fees received from candidates to take any or all sections of the certified public accountant examination shall be used only for costs related to the examination.

(4) Persons who on June 30, 2001, held valid certificates previously issued under this chapter shall be deemed to be certificate holders, subject to the following:

(a) Certificate holders may, prior to June 30, 2006, petition the board to become licensees by documenting to the board that they have gained one year of experience through the use of accounting, issuing reports, management advisory, financial advisory, tax, tax advisory, or consulting skills, without regard to the eight-year limitation set forth in (b) of this subsection, while employed in government, industry, academia, or public practice.

(b) Certificate holders who do not petition to become licensees prior to June 30, 2006, may after that date petition the board to become licensees by documenting to the board that they have one year of experience acquired within eight years prior to applying for a license through the use of accounting, issuing reports, management advisory, financial advisory, tax, tax advisory, or consulting skills in government, industry, academia, or public practice.

(c) Certificate holders who petition the board pursuant to (a) or (b) of this subsection must also meet competency requirements in a manner as determined by the board to be appropriate and established by board rule.

(d) Any certificate holder petitioning the board pursuant to (a) or (b) of this subsection to become a licensee must submit to the board satisfactory proof of having completed an accumulation of one hundred twenty hours of CPE during the thirty-six months preceding the date of filing the petition.

(e) Any certificate holder petitioning the board pursuant to (a) or (b) of this subsection to become a licensee must pay the appropriate fees established by rule by the board.

(5) Certificate holders shall comply with the prohibition against the practice of public accounting in RCW 18.04.345.

(6) Persons who on June 30, 2001, held valid certificates previously issued under this chapter are deemed to hold inactive certificates, subject to renewal as inactive certificates, until they have petitioned the board to become licensees and have met the requirements of subsection (4) of this section. No individual who did not hold a valid certificate before July 1, 2001, is eligible to obtain an inactive certificate.

(7) Persons deemed to hold inactive certificates under subsection (6) of this section shall comply with the prohibition against the practice of public accounting in subsection (8)(b) of this section and RCW 18.04.345, but are not required to display the term inactive as part of their title, as required by subsection (8)(a) of this section until renewal. Certificates renewed to any persons after June 30, 2001, are inactive certificates and the inactive certificate holders are subject to the requirements of subsection (8) of this section.

(8) Persons holding an inactive certificate:

(a) Must use or attach the term "inactive" whenever using the title CPA or certified public accountant or referring to the certificate, and print the word "inactive" immediately following the title, whenever the title is printed on a business card, letterhead, or any other document, including documents published or transmitted through electronic media, in the same font and font size as the title; and

(b) Are prohibited from practicing public accounting. [2016 c 127 § 3; 2004 c 159 § 2; 2001 c 294 § 7; 2000 c 171 § 2; 1999 c 378 § 2; 1992 c 103 § 7; 1991 sp.s. c 13 § 20; 1986 c 295 § 6; 1985 c 57 § 3; 1983 c 234 § 7.]

Additional notes found at www.leg.wa.gov

18.04.180 Reciprocity. (1) The board shall issue a license to a holder of a certificate/valid license issued by another state that entitles the holder to practice public accountancy, provided that:

(a) Such state makes similar provision to grant reciprocity to a holder of a valid certificate or license in this state;

(b) The applicant meets the CPE requirements of RCW 18.04.215(5);

(c) The applicant meets the good character requirements of RCW 18.04.105(1)(a); and

(d) The applicant passed the examination required for issuance of his or her certificate or license with grades that would have been passing grades at that time in this state and meets all current requirements in this state for issuance of a license at the time application is made; or at the time of the issuance of the applicant's license in the other state, met all the requirements then applicable in this state; or has three

years of experience within the five years immediately preceding application or had five years of experience within the ten years immediately preceding application in the practice of public accountancy that meets the requirements prescribed by the board.

(2) The board may accept NASBA's designation of the applicant as substantially equivalent to national standards as meeting the requirement of subsection (1)(d) of this section.

(3) A licensee who has been granted a license under the reciprocity provisions of this section shall notify the board within thirty days if the license or certificate issued in the other jurisdiction has lapsed or if the status of the license or certificate issued in the other jurisdiction becomes otherwise invalid. [2004 c 159 § 3; 2001 c 294 § 8; 1992 c 103 § 8; 1949 c 226 § 17; Rem. Supp. 1949 § 8269-24.]

Additional notes found at www.leg.wa.gov

18.04.183 Accountants from foreign countries. The board shall grant a license as a certified public accountant to a holder of a permit, license, or certificate issued by a foreign country's board, agency, or institute, provided that:

(1) The foreign country where the foreign permit, license, or certificate was issued is a party to an agreement on trade with the United States that encourages the mutual recognition of licensing and certification requirements for the provision of covered services by the parties under the trade agreement;

(2) Such foreign country's board, agency, or institute makes similar provision to allow a person who holds a valid license issued by this state to obtain such foreign country's comparable permit, license, or certificate;

(3) The foreign permit, license, or certificate:

(a) Was duly issued by such foreign country's board, agency, or institute that regulates the practice of public accountancy; and

(b) Is in good standing at the time of the application; and

(c) Was issued upon the basis of educational, examination, experience, and ethical requirements substantially equivalent currently or at the time of issuance of the foreign permit, license, or certificate to those in this state;

(4) The applicant has within the thirty-six months prior to application completed an accumulation of one hundred twenty hours of CPE as required under RCW 18.04.215(5). The board shall provide for transition from existing to new CPE requirements;

(5) The applicant's foreign permit, license, or certificate was the type of permit, license, or certificate requiring the most stringent qualifications if, in the foreign country, more than one type of permit, license, or certificate is issued. This state's board shall decide which are the most stringent qualifications;

(6) The applicant has passed a written examination or its equivalent, approved by the board, that tests knowledge in the areas of United States accounting principles, auditing standards, commercial law, income tax law, and Washington state rules of professional ethics; and

(7) The applicant has within the eight years prior to applying for a license under this section, demonstrated, in accordance with the rules issued by the board, one year of public accounting experience, within the foreign country where the foreign permit, license, or certificate was issued,

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equivalent to the experience required under RCW 18.04.105(1)(d) or such other experience or employment which the board in its discretion regards as substantially equivalent.

The board may adopt by rule new CPE standards that differ from those in subsection (4) of this section or RCW 18.04.215 if the new standards are consistent with the CPE standards of other states so as to provide to the greatest extent possible, consistent national standards.

A licensee who has been granted a license under the reciprocity provisions of this section shall notify the board within thirty days if the permit, license, or certificate issued in the other jurisdiction has lapsed or if the status of the permit, license, or certificate issued in the other jurisdiction becomes otherwise invalid. [2001 c 294 § 9; 1999 c 378 § 3; 1992 c 103 § 18.]

Additional notes found at www.leg.wa.gov

18.04.185 Application for license—Secretary of state agent for service of process. Application for a license to practice public accounting in this state by a certified public accountant or CPA firm who holds a license or permit to practice issued by another state constitutes the appointment of the secretary of state as an agent for service of process in any action or proceeding against the applicant arising from any transaction or operation connected with or incidental to the practice of public accounting in this state by the holder of the license to practice. [2001 c 294 § 10; 1999 c 378 § 4; 1986 c 295 § 7; 1983 c 234 § 8.]

Additional notes found at www.leg.wa.gov

18.04.195 License required—Requirements—Application—Fees. (1) The board shall grant or renew licenses to practice as a CPA firm to applicants that demonstrate their qualifications therefore in accordance with this section.

(a) The following must hold a license issued under this section:

(i) Any firm with an office in this state performing attest services as defined in RCW 18.04.025(1) or compilations as defined in RCW 18.04.025(6);

(ii) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; or

(iii) Any firm that does not have an office in this state but offers or renders attest services described in RCW 18.04.025 in this state, unless it meets each of the following requirements:

(A) Complies with the qualifications described in subsection (3)(c), (4)(a), or (5)(c) of this section;

(B) Meets the board's quality assurance review program requirements authorized by RCW 18.04.055(9) and the rules implementing such section;

(C) Performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(D) Can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(b) A firm that is not subject to the requirements of subsection (1)(a) of this section may perform compilation services described in RCW 18.04.025(6) and other nonattest professional services while using the title "CPA" or "CPA

firm" in this state without a license issued under this section only if:

(i) The firm performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(ii) The firm can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(2) A sole proprietorship required to obtain a license under subsection (1) of this section shall license, as a firm, every three years with the board.

(a) The sole proprietor shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a sole proprietorship that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office located in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215; and

(c) The licensed firm must meet requirements established by rule by the board.

(3) A partnership required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one general partner of the partnership shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a partnership that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal partner of the partnership and any partner having authority over issuing reports shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet requirements established by rule by the board.

(4) A corporation required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board and shall meet the following requirements:

(a) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all shareholders or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state and is principally employed by the corporation or actively engaged in its business. The principal officer of the corporation and any officer or director having authority over issuing reports shall hold a license under this chapter or issued by another state;

(b) At least one shareholder of the corporation shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a corporation that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(c) Each resident individual in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(d) A written agreement shall bind the corporation or its shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder, and bind any holder not a qualified shareholder to sell the shares to the corporation or its qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, as long as one share remains outstanding;

(e) The corporation shall comply with any other rules pertaining to corporations practicing public accounting in this state as the board may prescribe; and

(f) The licensed firm must meet requirements established by rule by the board.

(5) A limited liability company required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one member of the limited liability company shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a limited liability company that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident manager or member in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal member or manager of the limited liability company and any member having authority over issuing reports shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet requirements established by rule by the board.

(6) Application for a license as a firm with an office in this state shall be made upon the affidavit of the proprietor or individual designated as managing partner, member, or shareholder for Washington. This individual shall hold a license under RCW 18.04.215.

(7) In the case of a firm licensed in another state and required to obtain a license under subsection (1)(a)(iii) of this section, the application for the firm license shall be made upon the affidavit of an individual who qualifies for practice privileges in this state under RCW 18.04.350(2) who has been authorized by the applicant firm to make the application. The board shall determine in each case whether the applicant is eligible for a license.

(8) The board shall be given notification within ninety days after the admission or withdrawal of a partner, shareholder, or member engaged in this state in the practice of public accounting from any partnership, corporation, or limited liability company so licensed.

(9) Licensed firms that fall out of compliance with the provisions of this section due to changes in firm ownership, after receiving or renewing a license, shall notify the board in

writing within ninety days of its falling out of compliance and propose a time period in which they will come back into compliance. The board may grant a reasonable period of time for a firm to be in compliance with the provisions of this section. Failure to bring the firm into compliance within a reasonable period of time, as determined by the board, may result in suspension, revocation, or imposition of conditions on the firm's license.

(10) Fees for the license as a firm and for notification of the board of the admission or withdrawal of a partner, shareholder, or member shall be determined by the board. Fees shall be paid by the firm at the time the license application form or notice of admission or withdrawal of a partner, shareholder, or member is filed with the board.

(11) Nonlicensee owners of licensed firms are:

(a) Required to fully comply with the provisions of this chapter and board rules;

(b) Required to be an individual;

(c) Required to be of good character, as defined in RCW 18.04.105(1)(a), and an active individual participant in the licensed firm or affiliated entities as these terms are defined by board rule; and

(d) Subject to discipline by the board for violation of this chapter.

(12) Resident nonlicensee owners of licensed firms are required to meet:

(a) The ethics examination, registration, and fee requirements as established by the board rules; and

(b) The ethics CPE requirements established by the board rules.

(13)(a) Licensed firms must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee or nonlicensee firm owner by any federal or other state agency related to the licensee's practice of public accounting or violation of ethical or technical standards established by board rule; or

(iii) The licensed firm is notified that it has been charged with a violation of law that could result in the suspension or revocation of the firm's license by a federal or other state agency, as identified by board rule, related to the firm's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees to report to the board sanctions or orders relating to the licensee's practice of public accounting or violation of ethical or technical standards entered against the licensee by a nongovernmental professionally related standard-setting entity. [2016 c 127 § 4; 2008 c 16 § 3; 2003 c 290 § 1; 2001 c 294 § 11; 1999 c 378 § 5; 1994 c 211 § 1402; 1986 c 295 § 8; 1983 c 234 § 9.]

Finding—Intent—2008 c 16: See note following RCW 18.04.025.

Additional notes found at www.leg.wa.gov

18.04.205 Registration of offices—Requirements—Rules—Fees. (1) Each office established or maintained in this state for the purpose of offering to issue or issuing reports

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in this state or that uses the title "certified public accountant" or "CPA," shall register with the board under this chapter every three years.

(2) Each office established or maintained in this state shall be under the direct supervision of a resident licensee holding a license under RCW 18.04.105 and 18.04.215.

(3) The board shall by rule prescribe the procedure to be followed to register and maintain offices established in this state for the purpose of offering to issue or issuing attest or compilation reports or that use the title "certified public accountant" or "CPA."

(4) Fees for the registration of offices shall be determined by the board. Fees shall be paid by the applicant at the time the registration form is filed with the board. [2016 c 127 § 6; 2008 c 16 § 4; 2001 c 294 § 12; 1999 c 378 § 6; 1992 c 103 § 9; 1986 c 295 § 9; 1983 c 234 § 10.]

Finding—Intent—2008 c 16: See note following RCW 18.04.025.

Additional notes found at www.leg.wa.gov

18.04.215 Licenses—Issuance—Renewal and reinstatement—Continuing professional education—Fees—Notification of sanction/suspension/revocation of license.

(1) Three-year licenses shall be issued by the board:

(a) To persons meeting the requirements of RCW 18.04.105(1), 18.04.180, or 18.04.183.

(b) To certificate holders meeting the requirements of RCW 18.04.105(4).

(c) To firms under RCW 18.04.195, meeting the requirements of RCW 18.04.205.

(2) The board shall, by rule, provide for a system of certificate and license renewal and reinstatement. Applicants for renewal or reinstatement shall, at the time of filing their applications, list with the board all states and foreign jurisdictions in which they hold or have applied for certificates, permits or licenses to practice.

(3) An inactive certificate is renewed every three years with renewal subject to the requirements of ethics CPE and the payment of fees, prescribed by the board. Failure to renew the inactive certificate shall cause the inactive certificate to lapse and be subject to reinstatement. The board shall adopt rules providing for fees and procedures for renewal and reinstatement of inactive certificates.

(4) A license is issued every three years with renewal subject to requirements of CPE and payment of fees, prescribed by the board. Failure to renew the license shall cause the license to lapse and become subject to reinstatement. Persons holding a lapsed license are prohibited from using the title "CPA" or "certified public accountant." Persons holding a lapsed license are prohibited from practicing public accountancy. The board shall adopt rules providing for fees and procedures for issuance, renewal, and reinstatement of licenses.

(5) The board shall adopt rules providing for CPE for licensees and certificate holders. The rules shall:

(a) Provide that a licensee shall verify to the board that he or she has completed at least an accumulation of one hundred twenty hours of CPE during the last three-year period to maintain the license;

(b) Establish CPE requirements; and

(c) Establish when new licensees shall verify that they have completed the required CPE.

(6) A certified public accountant who holds a license issued by another state, and applies for a license in this state, may practice in this state from the date of filing a completed application with the board, until the board has acted upon the application provided the application is made prior to holding out as a certified public accountant in this state and no sanctions or investigations, deemed by the board to be pertinent to public accountancy, by other jurisdictions or agencies are in process.

(7) A licensee shall submit to the board satisfactory proof of having completed an accumulation of one hundred twenty hours of CPE recognized and approved by the board during the preceding three years. Failure to furnish this evidence as required shall make the license lapse and subject to reinstatement procedures, unless the board determines the failure to have been due to retirement or reasonable cause.

The board in its discretion may renew a certificate or license despite failure to furnish evidence of compliance with requirements of CPE upon condition that the applicant follow a particular program of CPE. In issuing rules and individual orders with respect to CPE requirements, the board, among other considerations, may rely upon guidelines and pronouncements of recognized educational and professional associations, may prescribe course content, duration, and organization, and may take into account the accessibility of CPE to licensees and certificate holders and instances of individual hardship.

(8) Fees for renewal or reinstatement of certificates and licenses in this state shall be determined by the board under this chapter. Fees shall be paid by the applicant at the time the application form is filed with the board. The board, by rule, may provide for proration of fees for licenses or certificates issued between normal renewal dates.

(9)(a) Licensees, certificate holders, and nonlicensee owners must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee, certificate holder, or nonlicensee owner by any federal or other state agency related to the licensee's practice of public accounting or the licensee's, certificate holder's, or nonlicensee owner's violation of ethical or technical standards established by board rule; or

(iii) The licensee, certificate holder, or nonlicensee owner is notified that he or she has been charged with a violation of law that could result in the suspension or revocation of a license or certificate by a federal or other state agency, as identified by board rule, related to the licensee's, certificate holder's, or nonlicensee owner's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees, certificate holders, and nonlicensee owners to report to the board sanctions or orders relating to the licensee's practice of public accounting or the licensee's, certificate holder's, or nonlicensee owner's violation of ethical or technical standards entered against the licensee, certificate holder, or nonlicensee owner by a nongovernmental profes-

sionally related standard-setting entity. [2003 c 290 § 2; 2001 c 294 § 13; 1999 c 378 § 7; 1992 c 103 § 10; 1986 c 295 § 10; 1983 c 234 § 11.]

Additional notes found at www.leg.wa.gov

18.04.295 Actions against CPA license. The board shall have the power to: Revoke, suspend, or refuse to issue, renew, or reinstate a license or certificate; impose a fine in an amount not to exceed thirty thousand dollars plus the board's investigative and legal costs in bringing charges against a certified public accountant, a certificate holder, a licensee, a licensed firm, an applicant, a non-CPA violating the provisions of RCW 18.04.345, or a nonlicensee holding an ownership interest in a licensed firm; may impose full restitution to injured parties; may impose conditions precedent to renewal of a certificate or a license; or may prohibit a nonlicensee from holding an ownership interest in a licensed firm, for any of the following causes:

(1) Fraud or deceit in obtaining a license, or in any filings with the board;

(2) Dishonesty, fraud, or negligence while representing oneself as a nonlicensee owner holding an ownership interest in a licensed firm, a licensee, or a certificate holder;

(3) A violation of any provision of this chapter;

(4) A violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;

(5) Conviction of a crime or an act constituting a crime under:

(a) The laws of this state;

(b) The laws of another state, and which, if committed within this state, would have constituted a crime under the laws of this state; or

(c) Federal law;

(6) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant by any other state for any cause other than failure to pay a fee or to meet the requirements of CPE in the other state;

(7) Suspension or revocation of the right to practice matters relating to public accounting before any state or federal agency;

For purposes of subsections (6) and (7) of this section, a certified copy of such revocation, suspension, or refusal to renew shall be prima facie evidence;

(8) Failure to maintain compliance with the requirements for issuance, renewal, or reinstatement of a certificate or license, or to report changes to the board;

(9) Failure to cooperate with the board by:

(a) Failure to furnish any papers or documents requested or ordered by the board;

(b) Failure to furnish in writing a full and complete explanation covering the matter contained in the complaint filed with the board or the inquiry of the board;

(c) Failure to respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding;

(10) Failure by a nonlicensee owner of a licensed firm to comply with the requirements of this chapter or board rule; and

(11) Failure to comply with an order of the board. [2004 c 159 § 4; 2003 c 290 § 3; 2001 c 294 § 14; 2000 c 171 § 1; 1992 c 103 § 11; 1986 c 295 § 11; 1983 c 234 § 12.]

Additional notes found at www.leg.wa.gov

18.04.305 Actions against firm license. The board may revoke, suspend, or refuse to renew the license issued to a firm if at any time the firm does not meet the requirements of this chapter for licensing, or for any of the causes enumerated in RCW 18.04.295, or for any of the following additional causes:

(1) The revocation or suspension of the sole-practitioner's license or the revocation or suspension or refusal to renew the license of any partner, manager, member, or shareholder;

(2) The revocation, suspension, or refusal to renew the license of the firm, or any partner, manager, member, or shareholder thereof, to practice public accounting in any other state or foreign jurisdiction for any cause other than failure to pay a fee or to meet the CPE requirements of the other state or foreign jurisdiction;

(3) Failure by a nonlicensee owner of a licensed firm to comply with the requirements of this chapter or board rule; or

(4) Failure of the firm to comply with the requirements of this chapter or board rule. [2001 c 294 § 15; 1992 c 103 § 12; 1986 c 295 § 12; 1983 c 234 § 13.]

Additional notes found at www.leg.wa.gov

18.04.320 Actions against license—Procedures. In the case of the refusal, revocation, or suspension of a certificate or a license by the board under the provisions of this chapter, such proceedings and any appeal therefrom shall be taken in accordance with the administrative procedure act, chapter 34.05 RCW. [1986 c 295 § 13; 1983 c 234 § 14; 1949 c 226 § 31; Rem. Supp. 1949 § 8269-38.]

18.04.335 Reissuance or modification of suspension of license or certificate. (1) Upon application in writing and after hearing pursuant to notice, the board may:

(a) Modify the suspension of, or reissue a certificate or a license to, an individual whose certificate or license has been revoked or suspended; or

(b) Modify the suspension of, or reissue a license to a firm whose license has been revoked, suspended, or which the board has refused to renew.

(2) In the case of suspension for failure to comply with a support order under chapter 74.20A RCW, if the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of a certificate or a license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order. [2001 c 294 § 16; 1997 c 58 § 812; 1992 c 103 § 13; 1986 c 295 § 14; 1983 c 234 § 15.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.04.345 Prohibited practices. (1) No individual may assume or use the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation,

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words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant-inactive or CPA-inactive unless the individual holds a certificate. Individuals holding only a certificate may not practice public accounting.

(2) No individual may hold himself or herself out to the public or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant or CPA unless the individual qualifies for the privileges authorized by RCW 18.04.350(2) or holds a license under RCW 18.04.105 and 18.04.215.

(3) No firm with an office in this state may perform or offer to perform attest services as defined in RCW 18.04.025(1) or compilation services as defined in RCW 18.04.025(6) or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants or CPAs, unless the firm is licensed under RCW 18.04.195 and all offices of the firm in this state are maintained and registered under RCW 18.04.205. This subsection does not limit the services permitted under RCW 18.04.350(10) by persons not required to be licensed under this chapter.

(4) No firm may perform the services defined in RCW 18.04.025(1) in this state unless the firm is licensed under RCW 18.04.195, renews the firm license as required under RCW 18.04.215, and all offices of the firm in this state are maintained and registered under RCW 18.04.205.

(5) No individual, partnership, limited liability company, or corporation offering public accounting services to the public may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, or its name, or any other name the title or designation "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," "LA," "LPA," or "PA," or similar abbreviations likely to be confused with "CPA."

(6) No licensed firm may operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the board.

(7) No individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her business to any report prescribed by professional standards unless the individual holds a license to practice under RCW 18.04.105 and 18.04.215, a firm holds a license under RCW 18.04.195, and all of the individual's offices in this state are registered under RCW 18.04.205.

(8) No individual licensed in another state may sign, affix, or associate a firm name to any report prescribed by professional standards, or associate a firm name in conjunction with the title certified public accountant, unless the individual:

(a) Qualifies for the practice privileges authorized by RCW 18.04.350(2); or

(b) Is licensed under RCW 18.04.105 and 18.04.215, and all of the individual's offices in this state are maintained and registered under RCW 18.04.205.

(9) No individual, partnership, limited liability company, or corporation not holding a license to practice under RCW 18.04.105 and 18.04.215, or firm not licensed under RCW 18.04.195 or firm not registering all of the firm's offices in this state under RCW 18.04.205, or not qualified for the practice privileges authorized by RCW 18.04.350(2), may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

(10) For purposes of this section, because individuals practicing using practice privileges under RCW 18.04.350(2) are deemed substantially equivalent to licensees under RCW 18.04.105 and 18.04.215, every word, term, or reference that includes the latter shall be deemed to include the former, provided the conditions of such practice privilege, as set forth in RCW 18.04.350 (4) and (5) are maintained.

(11) Notwithstanding anything to the contrary in this section, it is not a violation of this section for a firm that does not hold a valid license under RCW 18.04.195 and that does not have an office in this state to use the title "CPA" or "certified public accountant" as part of the firm's name and to provide its professional services in this state, and licensees and individuals with practice privileges may provide services on behalf of such firms so long as it complies with the requirements of RCW 18.04.195(1). An individual or firm authorized under this subsection to use practice privileges in this state must comply with the requirements otherwise applicable to licensees in this section. [2016 c 127 § 5; 2009 c 116 § 1; 2008 c 16 § 5; 2001 c 294 § 17; 1999 c 378 § 8; 1992 c 103 § 14; 1986 c 295 § 15; 1983 c 234 § 16.]

Finding—Intent—2008 c 16: See note following RCW 18.04.025.

Additional notes found at www.leg.wa.gov

18.04.350 Practices not prohibited. (1) Nothing in this chapter prohibits any individual not holding a license and not qualified for the practice privileges authorized by subsection (2) of this section from serving as an employee of a firm licensed under RCW 18.04.195 and 18.04.215. However, the employee shall not issue any report as defined in this chapter, on the information of any other persons, firms, or governmental units over his or her name.

(2) An individual whose principal place of business is not in this state shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state without the need to obtain a license under RCW 18.04.105 if the individual:

(a) Holds a valid license as a certified public accountant from any state that requires, as a condition of licensure, that an individual:

(i) Have at least one hundred fifty semester hours of college or university education including a baccalaureate or higher degree conferred by a college or university;

(ii) Achieve a passing grade on the uniform certified public accountant examination; and

(iii) Possess at least one year of experience including service or advice involving the use of accounting, attest, compi-

lation, management advisory, financial advisory, tax, or consulting skills, all of which was verified by a licensee; or

(b) Holds a valid license as a certified public accountant from any state that does not meet the requirements of (a) of this subsection, but such individual's qualifications are substantially equivalent to those requirements. Any individual who passed the uniform certified public accountant examination and holds a valid license issued by any other state prior to January 1, 2012, may be exempt from the education requirements in (a)(i) of this subsection for purposes of this section.

(3) Notwithstanding any other provision of law, an individual who qualifies for the practice privilege under subsection (2) of this section may offer or render professional services, whether in person or by mail, telephone, or electronic means, and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements of subsection (4) of this section.

(4) Any individual licensee of another state exercising the privilege afforded under subsection (2) of this section and the firm that employs that licensee simultaneously consent, as a condition of exercising this privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) To comply with this chapter and the board's rules;

(c) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm; and

(d) To the appointment of the state board which issued the certificate or license as their agent upon whom process may be served in any action or proceeding by this state's board against the certificate holder or licensee.

(5) An individual who qualifies for practice privileges under subsection (2) of this section who performs any attest service described in RCW 18.04.025(1) may only do so through a firm which has obtained a license under RCW 18.04.195 and 18.04.215 or which meets the requirements for an exception from the firm licensure requirements under RCW 18.04.195(1) (a)(iii) or (b).

(6) A licensee of this state offering or rendering services or using their CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding RCW 18.04.295 and this section, the board shall cooperate with and investigate any complaint made by the board of accountancy of another state or jurisdiction.

(7) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying for practice privileges by this section from disclosing any data in confidence to other certified public accountants, quality assurance or peer review teams, partnerships, limited liability companies, or corporations of certified public accountants or to the board or any of its employees engaged in conducting quality assurance or peer reviews, or any one of their employees in connection with quality or peer reviews of that accountant's accounting and auditing practice conducted under the auspices of recognized professional associations.

(8) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying

for practice privileges by this section from disclosing any data in confidence to any employee, representative, officer, or committee member of a recognized professional association, or to the board, or any of its employees or committees in connection with a professional investigation held under the auspices of recognized professional associations or the board.

(9) Nothing in this chapter prohibits any officer, employee, partner, or principal of any organization:

(a) From affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization; or

(b) From describing himself or herself by the position, title, or office he or she holds in such organization.

(10) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public bookkeeping, accounting, tax services, the devising and installing of financial information systems, management advisory, or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters, or similar services, provided that persons, partnerships, limited liability companies, or corporations not holding a license who offer or render these services do not designate any written statement as a report as defined in RCW 18.04.025(21) or use any language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports or any attest service as defined in this chapter.

(11) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public the preparation of financial statements, or written statements describing how such financial statements were prepared, provided that persons, partnerships, limited liability companies, or corporations not holding a license who offer or render these services do not designate any written statement as a report as defined in RCW 18.04.025(21), do not issue any written statement that purports to express or disclaim an opinion on financial statements that have been audited, and do not issue any written statement that expresses assurance on financial statements that have been reviewed. The board may prescribe, by rule, language for the written statement describing how such financial statements were prepared for use by persons not holding a license under this chapter.

(12) Nothing in this chapter prohibits any act of or the use of any words by a public official or a public employee in the performance of his or her duties.

(13) Nothing contained in this chapter prohibits any person who holds only a valid certificate from assuming or using the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, sign, card, or device tending to indicate the person is a certificate holder, provided, that such person does not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports or of one or more kinds of management advisory, financial advisory, consulting services, the preparation of tax returns, or the furnishing of advice on tax matters.

(14) Nothing in this chapter prohibits the use of the title "accountant" by any person regardless of whether the person has been granted a certificate or holds a license under this

chapter. Nothing in this chapter prohibits the use of the title "enrolled agent" or the designation "EA" by any person regardless of whether the person has been granted a certificate or holds a license under this chapter if the person is properly authorized at the time of use to use the title or designation by the United States department of the treasury. The board shall by rule allow the use of other titles by any person regardless of whether the person has been granted a certificate or holds a license under this chapter if the person using the titles or designations is authorized at the time of use by a nationally recognized entity sanctioning the use of board authorized titles. [2016 c 127 § 7; 2008 c 16 § 6; 2001 c 294 § 18; 1992 c 103 § 15; 1986 c 295 § 16; 1983 c 234 § 17; 1969 c 114 § 7; 1949 c 226 § 34; Rem. Supp. 1949 § 8269-41.]

Finding—Intent—2008 c 16: See note following RCW 18.04.025.

Additional notes found at www.leg.wa.gov

18.04.360 Practices may be enjoined. If, in the judgment of the board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of this chapter, the board may make application to the appropriate court for an order enjoining such acts or practices and upon a showing by the board that such person has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate may be granted by such court. [1983 c 234 § 18; 1949 c 226 § 35; Rem. Supp. 1949 § 8269-42.]

Injunctions: Chapter 7.40 RCW.

18.04.370 Penalty. (1) Any person who violates any provision of this chapter shall be guilty of a crime, as follows:

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than six months, or to both such fine and imprisonment.

(b) Notwithstanding (a) of this subsection, any person who uses a professional title intended to deceive the public, in violation of RCW 18.04.345, having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both such fine and imprisonment.

(c) Notwithstanding (a) of this subsection, any person whose license or certificate was suspended or revoked by the board and who uses the CPA professional title intending to deceive the public, in violation of RCW 18.04.345, having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both fine and imprisonment.

(2) With the exception of first time violations of RCW 18.04.345, subject to subsection (3) of this section whenever the board has reason to believe that any person is violating the provisions of this chapter it shall certify the facts to the prosecuting attorney of the county in which such person resides or may be apprehended and the prosecuting attorney shall cause appropriate proceedings to be brought against such person.

(3) The board may elect to enter into a stipulated agreement and orders of assurance with persons in violation of RCW 18.04.345 who have not previously been found to have violated the provisions of this chapter. The board may order full restitution to injured parties as a condition of a stipulated agreement and order of assurance.

(4) Nothing herein contained shall be held to in any way affect the power of the courts to grant injunctive or other relief as above provided. [2004 c 159 § 5. Prior: 2003 c 290 § 5; 2003 c 53 § 120; 2001 c 294 § 19; 1983 c 234 § 19; 1949 c 226 § 36; Rem. Supp. 1949 § 8269-43.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

18.04.380 Advertising falsely—Effect. (1) The display or presentation by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof shall be prima facie evidence in any action brought under this chapter that the person whose name is so displayed, caused or procured the display or presentation of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding himself or herself out to be a licensee, a certified public accountant, or a person holding a certificate under this chapter.

(2) The display or presentation by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device, bearing a person's name in conjunction with the words certified public accountant-inactive or any abbreviation thereof is prima facie evidence in any action brought under this chapter that the person whose name is so displayed caused or procured the display or presentation of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding himself or herself out to be a certified public accountant-inactive under this chapter.

(3) In any action under subsection (1) or (2) of this section, evidence of the commission of a single act prohibited by this chapter is sufficient to justify an injunction or a conviction without evidence of a general course of conduct. [2001 c 294 § 20; 1986 c 295 § 17; 1983 c 234 § 20; 1949 c 226 § 37; Rem. Supp. 1949 § 8269-44.]

False advertising: Chapter 9.04 RCW.

Additional notes found at www.leg.wa.gov

18.04.390 Papers, records, schedules, etc., property of the licensee or licensed firm—Prohibited practices—Rights of client. (1) In the absence of an express agreement between the licensee or licensed firm and the client to the contrary, all statements, records, schedules, working papers, and memoranda made by a licensee or licensed firm incident to or in the course of professional service to clients, except reports submitted by a licensee or licensed firm, are the property of the licensee or licensed firm.

(2) No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed without the consent of the client or his or her personal representative or assignee, to anyone other than one or more surviving partners, shareholders, or new partners or new shareholders

of the licensee, partnership, limited liability company, or corporation, or any combined or merged partnership, limited liability company, or corporation, or successor in interest.

(3) A licensee shall furnish to the board or to his or her client or former client, upon request and reasonable notice:

(a) A copy of the licensee's working papers or electronic documents, to the extent that such working papers or electronic documents include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by him or her.

(4)(a) For a period of seven years after the end of the fiscal period in which a licensed firm concludes an audit or review of a client's financial statements, the licensed firm must retain records relevant to the audit or review, as determined by board rule.

(b) The board must adopt rules to implement this subsection, including rules relating to working papers and document retention.

(5) Nothing in this section should be construed as prohibiting any temporary transfer of workpapers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to RCW 18.04.405. [2003 c 290 § 4; 2001 c 294 § 21; 1992 c 103 § 16; 1986 c 295 § 18; 1983 c 234 § 21; 1949 c 226 § 38; Rem. Supp. 1949 § 8269-45.]

Additional notes found at www.leg.wa.gov

18.04.405 Confidential information—Disclosure, when—Subpoenas. (1) A licensee, certificate holder, or licensed firm, or any of their employees shall not disclose any confidential information obtained in the course of a professional transaction except with the consent of the client or former client or as disclosure may be required by law, legal process, the standards of the profession, or as disclosure of confidential information is permitted by *RCW 18.04.350 (3) and (4), 18.04.295(8), 18.04.390, and this section in connection with quality assurance, or peer reviews, investigations, and any proceeding under chapter 34.05 RCW.

(2) This section shall not be construed as limiting the authority of this state or of the United States or an agency of this state, the board, or of the United States to subpoena and use such confidential information obtained by a licensee, or any of their employees in the course of a professional transaction in connection with any investigation, public hearing, or other proceeding, nor shall this section be construed as prohibiting a licensee or certified public accountant whose professional competence has been challenged in a court of law or before an administrative agency from disclosing confidential information as a part of a defense to the court action or administrative proceeding.

(3) The proceedings, records, and work papers of a review committee shall be privileged and shall not be subject to discovery, subpoena, or other means of legal process or introduction into evidence in any civil action, arbitration, administrative proceeding, or board proceeding and no mem-

ber of the review committee or person who was involved in the peer review process shall be permitted or required to testify in any such civil action, arbitration, administrative proceeding, or board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the peer review process, or as to any findings, recommendations, evaluations, opinions, or other actions of such committees, or any members thereof. Information, documents, or records that are publicly available are not to be construed as immune from discovery or use in any civil action, arbitration, administrative proceeding, or board proceeding merely because they were presented or considered in connection with the quality assurance or peer review process. [2001 c 294 § 22; 1992 c 103 § 17; 1986 c 295 § 19; 1983 c 234 § 23.]

***Reviser's note:** RCW 18.04.350 was amended by 2008 c 16 § 6, changing subsections (3) and (4) to subsections (7) and (8).

Additional notes found at www.leg.wa.gov

18.04.420 License or certificate suspension—Nonpayment or default on educational loan or scholarship. The board shall suspend the license or certificate of any person who has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license or certificate shall not be reissued until the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the board may impose. [1996 c 293 § 2.]

Additional notes found at www.leg.wa.gov

18.04.430 License or certificate suspension—Noncompliance with support order—Reissuance. The board shall immediately suspend the certificate or license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 811.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

(2016 Ed.)

18.04.910 Effective date—1983 c 234. 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 on July 1, 1983. [1983 c 234 § 35.]

18.04.911 Effective date—1986 c 295. 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 on July 1, 1986, except as provided in this section. *Section 5 of this act shall not become effective if sections 90(1) and 4 of Engrossed Substitute House Bill No. 1758 become law. [1986 c 295 § 24.]

***Reviser's note:** Section 5 of this act was vetoed by the governor.

18.04.920 Short title. This chapter may be cited as the public accountancy act. [1986 c 295 § 22; 1983 c 234 § 1.]

Chapter 18.06 RCW

EAST ASIAN MEDICINE PRACTITIONERS

(Formerly: Acupuncture)

Sections

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18.06.190	Licensing by endorsement.
18.06.200	Health care insurance benefits not mandatory.
18.06.210	Prescription of drugs and practice of medicine not authorized.
18.06.220	East Asian medicine advisory committee.
18.06.230	Point injection therapy services—Education and training.

Performance of acupuncture by physician assistants and osteopathic physician assistants: RCW 18.57A.070.

18.06.005 Intent—2010 c 286. The legislature intends to recognize that acupuncturists licensed by the state of Washington engage in a system of medicine to maintain and promote wellness and to prevent, diagnose, and treat disease drawing upon the experience, learning, and traditions originating in East Asia, which include more than acupuncture alone. To reflect this reality, the legislature intends to change the state's professional designation of acupuncturists to East Asian medicine practitioners and to incorporate current statutory provisions governing acupuncture, while recognizing treatments, methods, and techniques used in East Asian medicine. The legislature does not intend to require persons licensed under chapter 286, Laws of 2010 to change the business name of their practice if otherwise in compliance with chapter 286, Laws of 2010. It is further the intent that any federal law, regulation, or health insurance program applicable to licensed acupuncturists apply to persons licensed under

chapter 286, Laws of 2010 as East Asian medicine practitioners. [2010 c 286 § 1.]

18.06.010 Definitions. The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "East Asian medicine" means a health care service utilizing East Asian medicine diagnosis and treatment to promote health and treat organic or functional disorders and includes the following:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture), as defined in rule by the department. Point injection therapy includes injection of substances, limited to saline, sterile water, herbs, minerals, vitamins in liquid form, and homeopathic and nutritional substances, consistent with the practice of East Asian medicine. Point injection therapy does not include injection of controlled substances contained in Schedules I through V of the uniform controlled substances act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300;

(k) Dietary advice and health education based on East Asian medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;

(l) Breathing, relaxation, and East Asian exercise techniques;

(m) Qi gong;

(n) East Asian massage and Tui na, which is a method of East Asian bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

(o) Superficial heat and cold therapies.

(2) "East Asian medicine practitioner" means a person licensed under this chapter.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee.

Nothing in this chapter requires individuals to be licensed as an East Asian medicine practitioner in order to provide the techniques and services in subsection (1)(k) through (o) of this section or to sell herbal products. [2016 c 97 § 1; 2010 c 286 § 2; 1995 c 323 § 4; 1992 c 110 § 1; 1991 c 3 § 4; 1985 c 326 § 1.]

18.06.020 Practice without license unlawful. (1) No one may hold themselves out to the public as an East Asian medicine practitioner, acupuncturist, or licensed acupuncturist or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an East Asian

medicine practitioner, acupuncturist, or licensed acupuncturist unless licensed as provided for in this chapter.

(2) A person may not practice East Asian medicine or acupuncture if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including L. Ac. or EAMP) which indicates a degree or formal training in East Asian medicine, including acupuncture, unless licensed as provided for in this chapter.

(4) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is licensed under this chapter.

(5) Any person licensed as an acupuncturist under this chapter prior to June 10, 2010, must, upon successful license renewal, be granted the title East Asian medicine practitioner or the letters EAMP indicating such license title. However, nothing in this section shall prohibit or limit in any way a practitioner licensed under this title from holding himself or herself out as an acupuncturist or licensed acupuncturist, or from using the letters L.Ac. after his or her name. [2010 c 286 § 3; 1995 c 323 § 5; 1991 c 3 § 5; 1985 c 326 § 2.]

18.06.045 Exemptions from chapter. Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual credentialed under the laws of this state and performing services within such individual's 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 secretary, 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;

(4) The practice of East Asian medicine, including acupuncture, by any person credentialed to perform East Asian medicine, including acupuncture, in any other jurisdiction where such person is doing so in the course of regular instruction of a school of East Asian medicine, including acupuncture, approved by the secretary or in an educational seminar by a professional organization of East Asian medicine, including acupuncture, provided that in the latter case, the practice is supervised directly by a person licensed under this chapter or licensed under any other healing art whose scope of practice is East Asian medicine, including acupuncture. [2010 c 286 § 4; 1995 c 323 § 6; 1992 c 110 § 2.]

18.06.050 Applications for examination—Qualifications. Any person seeking to be examined shall present to the secretary at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and East Asian medicine, including acupuncture, over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, microbiology, biochemis-

try, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed five hundred hours of clinical training in East Asian medicine, including acupuncture, that is approved by the secretary. [2010 c 286 § 5; 2004 c 262 § 2; 1991 c 3 § 7; 1987 c 447 § 15; 1985 c 326 § 5.]

Findings—2004 c 262: "The legislature finds that the health care workforce shortage is contributing to the health care crisis. The legislature also finds that some unnecessary barriers exist that slow or prevent qualified applicants from becoming credentialed health care providers. The legislature further finds that eliminating these initial barriers to licensure will contribute to state initiatives directed toward easing the health care personnel shortage in Washington." [2004 c 262 § 1.]

18.06.060 Approval of educational programs. The department shall consider for approval any school, program, apprenticeship, or tutorial which meets the requirements outlined in this chapter and provides the training required under RCW 18.06.050. Clinical and didactic training may be approved as separate programs or as a joint program. The process for approval shall be established by the secretary by rule. [1991 c 3 § 8; 1985 c 326 § 6.]

18.06.070 Approval of applications—Examination fee. No applicant may be permitted to take an examination under this chapter until the secretary has approved his or her application and the applicant has paid an examination fee as prescribed under RCW 43.70.250. The examination fee shall accompany the application. [1991 c 3 § 9; 1985 c 326 § 7.]

18.06.080 Authority of secretary—Examination—Contents—Immunity. (1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in East Asian medicine, including acupuncture, at least twice a year at such times and places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by an East Asian medicine practitioner and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and East Asian medicine, including acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of East Asian medicine practitioner. [2010 c 286 § 6; 2009 c 560 § 2; 1995 c 323 § 7; 1994 sp.s. c 9 § 502; 1992 c 110 § 3; 1991 c 3 § 10; 1985 c 326 § 8.]

Intent—2009 c 560: "One of the key roles of advisory boards, committees, and commissions is to provide input, advice and recommendations from stakeholders, other interested parties, and the public to state agencies. Some advisory boards, committees, and commissions may be abolished without

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detriment to the mission of the agency each supports. Most of the advisory functions of some boards, committees, and commissions can be performed without the administrative costs of maintaining formal organizations. In the interest of building a leaner, more efficient, and more responsible government, this vital communications conduit must be maintained for the benefit of the state and its citizens, through the use of modern communication technology. It is the intent of the legislature this interim to identify criteria to evaluate those advisory boards, committees, and commissions that may be eliminated or consolidated, and for agencies to identify new, less costly, and more effective opportunities to ensure a broad range of citizen participation is provided and that all reasonable efforts are made to ensure that channels are maintained for vital input from the citizens of Washington." [2009 c 560 § 1.]

Effective date—2009 c 560: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2009." [2009 c 560 § 30.]

Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: "(1) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the *department of general administration.

(2) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund.

(3) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct." [2009 c 560 § 28.]

***Reviser's note:** The department of general administration was renamed the department of enterprise services by 2011 1st sp.s. c 43 § 107.

Additional notes found at www.leg.wa.gov

18.06.090 Fluency in English required. Before licensure, each applicant shall demonstrate sufficient fluency in reading, speaking, and understanding the English language to enable the applicant to communicate with other health care providers and patients concerning health care problems and treatment. [1995 c 323 § 8; 1985 c 326 § 9.]

18.06.100 Investigation of applicant's background. Each applicant shall, as part of his or her application, furnish written consent to an investigation of his or her personal background, professional training, and experience by the department or any person acting on its behalf. [1985 c 326 § 10.]

18.06.110 Application of Uniform Disciplinary Act. The Uniform Disciplinary Act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of licenses, and the disciplining of license holders under this chapter. The secretary shall be the disciplining authority under this chapter. [1995 c 323 § 9; 1991 c 3 § 11; 1987 c 150 § 9; 1985 c 326 § 11.]

Additional notes found at www.leg.wa.gov

18.06.120 Compliance with administrative procedures—Fees. (1) Every person licensed under this chapter shall comply with the administrative procedures and administrative requirements for registration and renewal set by the secretary under RCW 43.70.250 and 43.70.280.

(2) All fees collected under this section and RCW 18.06.070 shall be credited to the health professions account as required under RCW 43.70.320. [2010 c 286 § 7; 1996 c

191 § 3; 1995 c 323 § 10; 1992 c 110 § 4; 1991 c 3 § 12; 1985 c 326 § 12.]

18.06.130 Patient information form—Penalty. (1) The secretary shall develop a form to be used by a person licensed under this chapter to inform the patient of the scope of practice and qualifications of an East Asian medicine practitioner. All license holders shall bring the form to the attention of the patients in whatever manner the secretary, by rule, provides.

(2) A person violating this section is guilty of a misdemeanor. [2010 c 286 § 8; 2003 c 53 § 121; 1995 c 323 § 11; 1991 c 3 § 13; 1985 c 326 § 13.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.06.140 Consultation with other health care practitioners—Patient waiver—Emergencies—Penalty. (1) When a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the practitioner shall immediately request a consultation or recent written diagnosis from a primary health care provider licensed under chapter 18.71, 18.57, 18.57A, 18.36A, or 18.71A RCW or RCW 18.79.050. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such primary health care provider, East Asian medical treatments, including acupuncture, may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an East Asian medicine practitioner's scope of practice, including the services and techniques East Asian medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an East Asian medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder. The requirements of the waiver shall be established by the secretary in rule.

(2) In an emergency, a person licensed under this chapter shall: (a) Initiate the emergency medical system by calling 911; (b) request an ambulance; and (c) provide patient support until emergency response arrives.

(3) A person violating this section is guilty of a misdemeanor. [2015 c 60 § 2; 2010 c 286 § 9; 2003 c 53 § 122; 1995 c 323 § 12; 1991 c 3 § 14; 1985 c 326 § 14.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.06.160 Adoption of rules. The secretary shall adopt rules in the manner provided by chapter 34.05 RCW as are necessary to carry out the purposes of this chapter. [1991 c 3 § 15; 1985 c 326 § 16.]

18.06.180 Application of chapter to previously registered acupuncture assistants. All persons registered as acupuncture assistants pursuant to chapter 18.71A or 18.57A RCW on July 28, 1985, shall be certified under this chapter by the secretary without examination if they otherwise would qualify for certification under this chapter and apply for cer-

tification within one hundred twenty days of July 28, 1985. [1991 c 3 § 17; 1985 c 326 § 18.]

18.06.190 Licensing by endorsement. The secretary may license a person without examination if such person is credentialed as an East Asian medicine practitioner or licensed acupuncturist, or equivalent, in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state. [2010 c 286 § 10; 1995 c 323 § 13; 1991 c 3 § 18; 1985 c 326 § 19.]

18.06.200 Health care insurance benefits not mandatory. Nothing in this chapter may be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person licensed under this chapter. [1995 c 323 § 14; 1985 c 326 § 20.]

18.06.210 Prescription of drugs and practice of medicine not authorized. This chapter shall not be construed as permitting the administration or prescription of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 or 18.57 RCW, except as authorized in this chapter. [1985 c 326 § 21.]

18.06.220 East Asian medicine advisory committee. The Washington state East Asian medicine advisory committee is established.

(1) The committee consists of five members, each of whom must be a resident of the state of Washington. Four committee members must be East Asian medicine practitioners licensed under this chapter who have not less than five years' experience in the practice of East Asian medicine and who have been actively engaged in practice within two years of appointment. The fifth committee member must be appointed from the public at large and must have an interest in the rights of consumers of health services.

(2) The secretary shall appoint the committee members. Committee members serve at the pleasure of the secretary. The secretary may appoint members of the initial committee to staggered terms of one to three years, and thereafter all terms are for three years. No member may serve more than two consecutive full terms.

(3) The committee shall meet as necessary, but no less often than once per year. The committee shall elect a chair and a vice chair. A majority of the members currently serving constitutes a quorum.

(4) The committee shall advise and make recommendations to the secretary on standards for the practice of East Asian medicine.

(5) Committee members must be compensated in accordance with RCW 43.03.240, including travel expenses in carrying out his or her authorized duties in accordance with RCW 43.03.050 and 43.03.060.

(6) Committee members are immune from suit in an action, civil or criminal, based on the department's disciplinary proceedings or other official acts performed in good faith. [2015 c 60 § 1.]

18.06.230 Point injection therapy services—Education and training. (1) Prior to providing point injection therapy services, an East Asian medicine practitioner must obtain the education and training necessary to provide the service. The department shall adopt rules by July 1, 2017, to specify the education and training necessary to provide point injection therapy.

(2) Any East Asian medicine practitioner performing point injection therapy prior to June 9, 2016, must be able to demonstrate, upon request of the department of health, successful completion of education and training in point injection therapy. [2016 c 97 § 4.]

Chapter 18.08 RCW ARCHITECTS

Sections

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Public contracts for architectural services: Chapter 39.80 RCW.

Safety requirements as to doors, public buildings, and places of entertainment: RCW 70.54.070.

18.08.235 Legislative findings—1985 c 37. The legislature finds that in order to safeguard life, health, and property and to promote the public welfare, it is necessary to regulate the practice of architecture. [1985 c 37 § 1.]

18.08.240 Architects' license account. There is established in the state treasury the architects' license account, into which all fees paid pursuant to this chapter shall be paid. [1991 sp.s. c 13 § 2; 1985 c 57 § 4; 1959 c 323 § 15.]

*Reviser's note: "Sections 123 through 139 of this act" [1991 sp.s. c 13] were vetoed by the governor.

Additional notes found at www.leg.wa.gov

18.08.310 Authorization to practice required—Out-of-state firms—Interns. (1) It is unlawful for any person to practice or offer to practice architecture in this state, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including the word "architect," "architecture," "architectural," or language tending to imply that he or she is an architect, unless the person is regis-

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tered or authorized to practice in the state of Washington under this chapter.

(2) An architect or architectural firm registered in any other jurisdiction recognized by the board may offer to practice architecture in this state if:

(a) It is clearly and prominently stated in such an offer that the architect or firm is not registered to practice architecture in the state of Washington; and

(b) Prior to practicing architecture or signing a contract to provide architectural services, the architect or firm must be registered to practice architecture in this state.

(3) A person who has an accredited architectural degree may use the title "intern architect" when enrolled in a structured intern program recognized by the board and working under the direct supervision of an architect.

(4) The provisions of this section shall not affect the use of the words "architect," "architecture," or "architectural" where a person does not practice or offer to practice architecture. [2010 c 129 § 1; 1985 c 37 § 2.]

18.08.320 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accredited architectural degree" means a professional degree from an institution of higher education accredited by the national architectural accreditation board or an equivalent degree in architecture as determined by the board.

(2) "Administration of the construction contract" means the periodic observation of materials and work to observe the general compliance with the construction contract documents, and does not include responsibility for supervising construction methods and processes, site conditions, equipment operations, personnel, or safety on the work site.

(3) "Architect" means an individual who is registered under this chapter to practice architecture.

(4) "Board" means the state board for architects.

(5) "Certificate of authorization" means a certificate issued by the director to a business entity that authorizes the entity to practice architecture.

(6) "Certificate of registration" means the certificate issued by the director to newly registered architects.

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

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

(9) "Engineer" means an individual who is registered as an engineer under chapter 18.43 RCW.

(10) "Managers" means the members of a limited liability company in which management of its business is vested in the members, and the managers of a limited liability company in which management of its business is vested in one or more managers.

(11) "Person" means any individual, partnership, professional service corporation, corporation, joint stock association, joint venture, or any other entity authorized to do business in the state.

(12) "Practice of architecture" means the rendering of services in connection with the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction of alterations or additions to the structures, including but not specifically limited to pre-design services, schematic design, design development,

preparation of construction contract documents, and administration of the construction contract.

(13) "Prototypical documents" means drawings or specifications, prepared by a person registered as an architect in any state or as otherwise approved by the board, that are not intended as final and complete technical submissions for a building project, but rather are to serve as a prototype for a building or buildings to be adapted by an architect for construction in more than one location.

(14) "Registered" means holding a currently valid certificate of registration or certificate of authorization issued by the director authorizing the practice of architecture.

(15) "Registered professional design firm" means a business entity registered in Washington to offer and provide architectural services under RCW 18.08.420.

(16) "Review" means a process of examination and evaluation, of the documents, for compliance with applicable laws, codes, and regulations affecting the built environment that includes the ability to control the final product.

(17) "Structure" means any construction consisting of load-bearing members such as the foundation, roof, floors, walls, columns, girders, and beams or a combination of any number of these parts, with or without other parts or appurtenances. [2010 c 129 § 2; 1985 c 37 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

18.08.330 Board for architects—Membership. There is created a state board for architects consisting of seven members who shall be appointed by the governor. Six members shall be registered architects who are residents of the state and have at least eight years' experience in the practice of architecture as registered architects in responsible charge of architectural work or responsible charge of architectural teaching. One member shall be a public member, who is not and has never been a registered architect and who does not employ and is not employed by or professionally or financially associated with an architect.

The terms of each newly appointed member shall be six years.

Every member of the board shall receive a certificate of appointment from the governor. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of six years or until the next successor has been appointed.

The governor may remove any member of the board for cause. Vacancies in the board for any reason shall be filled by appointment for the unexpired term.

The board shall elect a chair, a vice chair, and a secretary. The secretary may delegate his or her authority to the executive director.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2010 c 129 § 3; 1985 c 37 § 4.]

18.08.340 Board—Rules—Executive director. (1) The board may adopt such rules under chapter 34.05 RCW as are necessary for the proper performance of its duties under this chapter.

(2) The director shall employ an executive director subject to approval by the board. [2010 c 129 § 4; 2002 c 86 § 201; 1985 c 37 § 5.]

Additional notes found at www.leg.wa.gov

18.08.350 Certificate of registration—Application—Qualifications. (1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall possess one of the following qualifications:

(a) Have an accredited architectural degree and at least three years' practical architectural work experience in a structured intern training program approved by the board; or

(b) Have a high school diploma or equivalent and at least nine years of practical architectural work experience, including the completion of a structured intern training program under the direct supervision of an architect as determined by the board. Prior to applying to enroll in a structured intern training program, the applicant must have at least six years of work experience, of which three years must be under the direct supervision of an architect. This work experience may include designing buildings as a principal activity and post-secondary education as determined by the board. The board may approve up to four years of practical architectural work experience for postsecondary education courses in architecture, architectural technology, or a related field, as determined by the board, including courses completed in a community or technical college if the courses are equivalent to courses in an accredited architectural degree program. [2010 c 129 § 5; 1997 c 169 § 1; 1993 c 475 § 2; 1993 c 475 § 1; 1985 c 37 § 6.]

Effective date—Intern training program enrollment—2010 c 129 § 5: "Section 5 of this act takes effect July 1, 2012, and all persons enrolled in an intern training program as approved by the board before July 1, 2012, shall be governed by the statute in effect at the time of enrollment in the program." [2010 c 129 § 12.]

Additional notes found at www.leg.wa.gov

18.08.360 Examinations. (1) The examination for an architect's certificate of registration shall be held at least annually at such time and place as the board determines.

(2) The board shall determine the content, scope, and grading process of the examination. The board may adopt an appropriate national examination and grading procedure.

(3) Applicants who fail to pass any section of the examination shall be permitted to retake the parts failed as prescribed by the board. Applicants have five years from the date of the first passed examination section to pass all remaining sections. If the entire examination is not successfully completed within five years, any sections that were passed more than five years prior must be retaken. If a candidate fails to pass all remaining sections within the initial five-year period, the candidate is given a new five-year period

from the date of the second oldest passed section. All sections of the examination must be passed within a single five-year period for the applicant to be deemed to have passed the complete examination.

(4) Applicants for registration who have an accredited architectural degree may begin taking the examination upon enrollment in a structured intern training program as approved by the board. Applicants who do not possess an accredited architectural degree may take the examination only after completing the experience and intern training requirements of this chapter. [2010 c 129 § 6; 1985 c 37 § 7.]

18.08.370 Issuance of certificates of registration—Seal, use. (1) The director shall issue a certificate of registration to any applicant who has, to the satisfaction of the board, met all the requirements for registration upon payment of the registration fee as provided in this chapter. All certificates of registration shall show the full name of the registrant, have the registration number, and shall be signed by the chair of the board and by the director. The issuance of a certificate of registration by the director is prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered architect.

(2) Each registrant shall obtain a seal of the design authorized by the board bearing the architect's name, registration number, the legend "Registered Architect," and the name of this state. All technical submissions prepared by an architect and filed with public authorities must be sealed and signed by the architect. It is unlawful to seal and sign a document after a registrant's certificate of registration or authorization has expired, been revoked, or is suspended.

(3) An architect may seal and sign technical submissions under the following conditions:

(a) An architect may seal and sign technical submissions that are: Prepared by the architect; prepared by the architect's regularly employed subordinates; prepared in part by an individual or firm under a direct subcontract with the architect; or prepared in collaboration with an architect who is licensed in a jurisdiction recognized by the board, provided there is a contractual agreement between the architects.

(b) An architect may seal and sign technical submissions based on prototypical documents provided: The architect obtains written permission from the architect who prepared or sealed the prototypical documents, and from the legal owner to adapt the prototypical documents; the architect thoroughly analyzes the prototypical documents, makes necessary revisions, and adds all required elements and design information, including the design services of engineering consultants, if warranted, so that the prototypical documents become suitable complete technical submissions, in compliance with applicable codes, regulations, and site-specific requirements.

(c) An architect who seals and signs the technical submissions under this subsection (3) is responsible to the same extent as if the technical submissions were prepared by the architect. [2010 c 129 § 7; 1985 c 37 § 8.]

Effective date—2010 c 129 §§ 7-10: "Sections 7 through 10 of this act take effect July 1, 2011." [2010 c 129 § 11.]

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18.08.380 Certificates of registration, authorization—Replacement of lost, destroyed, or mutilated certificates. A new certificate of registration or certificate of authorization to replace any certificate lost, destroyed, or mutilated may be issued by the director. A charge, determined as provided in RCW 43.24.086, shall be made for such issuance. [2002 c 86 § 202; 1985 c 37 § 9.]

Additional notes found at www.leg.wa.gov

18.08.390 Registration of prior registrants. All persons registered as architects under chapter 205, Laws of 1919, or registered as architects under chapter 323, Laws of 1959, as amended, before July 28, 1985, shall be registered as architects without examination. [1985 c 37 § 10.]

18.08.400 Registration of out-of-state registrants. The director may, upon receipt of the current registration fee, grant a certificate of registration to an applicant who is a registered architect in another state or territory of the United States, the District of Columbia, or another country, if that individual's qualifications and experience are determined by the board to be equivalent to the qualifications and experience required of a person registered under RCW 18.08.350. [1985 c 37 § 11.]

18.08.410 Application of chapter. This chapter shall not affect or prevent:

(1) The practice of naval architecture, landscape architecture as authorized in chapter 18.96 RCW, engineering as authorized in chapter 18.43 RCW, or the provision of space planning or interior design services not affecting public health or safety;

(2) Drafters, clerks, project managers, superintendents, and other employees of architects from acting under the instructions, control, or supervision of an architect;

(3) The construction, alteration, or supervision of construction of buildings or structures by contractors registered under chapter 18.27 RCW or superintendents employed by contractors or the preparation of shop drawings in connection therewith;

(4) Owners or contractors registered under chapter 18.27 RCW from engaging persons who are not architects to observe and supervise construction of a project;

(5) Any person from doing design work including preparing construction contract documents and administration of the construction contract for the erection, enlargement, repair, or alteration of a structure or any appurtenance to a structure regardless of size, if the structure is to be used for a residential building of up to and including four dwelling units or a farm building or is a structure used in connection with or auxiliary to such residential building or farm building such as a garage, barn, shed, or shelter for animals or machinery;

(6) Except as otherwise provided in this section, any person from doing design work including preparing construction contract documents and administering the contract for construction, erection, enlargement, alteration, or repairs of or to a building of any occupancy up to a total building size of four thousand square feet; or

(7) Any person from doing design work, including preparing construction contract documents and administration of the contract, for alteration of or repairs to a building where

the project size is not more than four thousand square feet in a building greater than four thousand square feet and when the work contemplated by the design does not affect the life safety or structural systems of the building. The combined square footage of simultaneous projects allowed under this subsection (7) may not exceed four thousand square feet. [2010 c 129 § 8; 1985 c 37 § 12.]

Effective date—2010 c 129 §§ 7-10: See note following RCW 18.08.370.

18.08.420 Business entities—Authorization to practice required. (1) Any business entity, including a sole proprietorship, offering architecture services in Washington state must register with the board, regardless of its business structure. A business entity shall file with the board a list of individuals registered under this chapter as responsible for the practice of architecture by the business entity in this state and provides that full authority to make all final architectural decisions on behalf of the business entity with respect to work performed by the business entity in this state. Further, the person having the practice of architecture in his/her charge is himself/herself a general partner (if a partnership or limited liability partnership), or a manager (if a limited liability company), or a director (if a business corporation or professional service corporation) and is registered to practice architecture in this state.

(2) The business entity shall furnish the board with such information about its organization and activities as the board shall require by rule.

(3) Upon the filing with the board of the application for certificate of authorization, the certified copy of the resolution, and the information specified in subsection (1) of this section, the board shall authorize the director to issue to the business entity a certificate of authorization to practice architecture in this state.

(4) Any business entity practicing or offering to practice architecture, whether or not it is authorized to practice architecture under this chapter, shall be jointly and severally responsible to the same degree as an individual registered architect and shall conduct their business without misconduct or malpractice in the practice of architecture as defined in this chapter.

(5) Any business entity that has been certified under this chapter and has engaged in the practice of architecture may have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board finds that the business entity has committed misconduct or malpractice under RCW 18.08.440 or 18.235.130. In such a case, any individual architect registered under this chapter who is involved in such misconduct or malpractice is also subject to disciplinary measures provided in this chapter and RCW 18.235.110.

(6) For each certificate of authorization issued under this section there shall be paid a certification fee and an annual certification renewal fee as prescribed by the director under RCW 43.24.086. [2010 c 129 § 9; 2002 c 86 § 203; 1991 c 72 § 2; 1985 c 37 § 13.]

Effective date—2010 c 129 §§ 7-10: See note following RCW 18.08.370.

Additional notes found at www.leg.wa.gov

18.08.430 Renewal of certificates of registration—Withdrawal—Continuing professional development. (1) The renewal date for certificates of registration shall be set by the director in accordance with RCW 43.24.086. Registrants who fail to pay the renewal fee within thirty days of the due date shall pay all delinquent fees plus a penalty fee equal to one-third of the renewal fee. A registrant who fails to pay a renewal fee for a period of five years may be reinstated under such circumstances as the board determines. The renewal and penalty fees and the frequency of renewal assessment shall be authorized under this chapter. Renewal date for certificates of authorization shall be the anniversary of the date of authorization.

(2) Any registrant in good standing may withdraw from the practice of architecture by giving written notice to the director, and may within five years thereafter resume active practice upon payment of the then-current renewal fee. A registrant may be reinstated after a withdrawal of more than five years under such circumstances as the board determines.

(3) A registered architect must demonstrate professional development since the architect's last renewal or initial registration, as the case may be. The board shall by rule describe professional development activities acceptable to the board and the form of documentation of the activities required by the board. The board may decline to renew a registration if the architect's professional development activities do not meet the standards set by the board by rule. When adopting rules under the authority of this subsection, the board shall strive to ensure that the rules are consistent with the continuing professional education requirements and systems in use by national professional organizations representing architects and in use by other states.

(a) A registered architect shall, as part of his or her license renewal, certify that he or she has completed the required continuing professional development required by this section.

(b) The board may adopt reasonable exemptions from the requirements of this section. [2010 c 129 § 10; 1985 c 37 § 14.]

Effective date—2010 c 129 §§ 7-10: See note following RCW 18.08.370.

18.08.440 Powers under RCW 18.235.110—Grounds. The board shall have the power to impose any action listed under RCW 18.235.110 upon the following grounds:

(1) Offering to pay, paying, or accepting, either directly or indirectly, any substantial gift, bribe, or other consideration to influence the award of professional work;

(2) Being willfully untruthful or deceptive in any professional report, statement, or testimony;

(3) Having a financial interest in the bidding for or the performance of a contract to supply labor or materials for or to construct a project for which employed or retained as an architect except with the consent of the client or employer after disclosure of such facts; or allowing an interest in any business to affect a decision regarding architectural work for which retained, employed, or called upon to perform;

(4) Signing or permitting a seal to be affixed to any drawings or specifications that were not prepared or reviewed

by the architect or under the architect's personal supervision by persons subject to the architect's direction and control; or

(5) Willfully evading or trying to evade any law, ordinance, code, or regulation governing construction of buildings. [2002 c 86 § 204; 1985 c 37 § 15.]

Additional notes found at www.leg.wa.gov

18.08.460 Violation of chapter—Penalties—Enforcement—Injunctions—Persons who may initiate proceedings. (1) Any person who violates any provision of this chapter or any rule promulgated under it is guilty of a misdemeanor and may also be subject to a civil penalty in an amount not to exceed one thousand dollars for each offense.

(2) It shall be the duty of all officers in the state or any political subdivision thereof to enforce this chapter. Any public officer may initiate an action before the board to enforce the provisions of this chapter.

(3) The board may apply for relief by injunction without bond to restrain a person from committing any act that is prohibited by this chapter. In such proceedings, it is not necessary to allege or prove either that an adequate remedy at law does not exist or that substantial irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable for their actions in any such proceeding or in any other proceeding instituted by the board under this chapter. The board in any proper case shall cause prosecution to be instituted in any county or counties where any violation of this chapter occurs, and shall aid the prosecution of the violator.

(4) No person practicing architecture is entitled to maintain a proceeding in any court of this state relating to services in the practice of architecture unless it is alleged and proved that the person was registered or authorized under this chapter to practice or offer to practice architecture at the time the architecture services were offered or provided. [2003 c 53 § 123; 1985 c 37 § 17.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.08.470 Certificate or registration suspension—Nonpayment or default on educational loan or scholarship. The board shall suspend the certificate or registration of any person who has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate or registration shall not be reissued until the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification or registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the board may impose. [1996 c 293 § 3.]

Additional notes found at www.leg.wa.gov

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18.08.480 Certificate of registration or authorization suspension—Noncompliance with support order—Reissuance. The board shall immediately suspend the certificate of registration or certificate of authorization to practice architecture of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet other requirements for reinstatement during the suspension, reissuance of the certificate shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order. [1997 c 58 § 813.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.08.490 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 205.]

Additional notes found at www.leg.wa.gov

18.08.500 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 1.]

Chapter 18.09 RCW ATTORNEYS-AT-LAW

See chapter 2.44 RCW, *attorneys-at-law*.

Chapter 18.11 RCW AUCTIONEERS

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18.11.901	Short title.
18.11.903	Effective date—1986 c 324.

*Limitations on power of**cities and towns to regulate auctioneers: RCW 35.21.690.**counties to regulate auctioneers: RCW 36.71.070.**Mock auctions: RCW 9.45.070.**Motor vehicle auction companies, place of business: RCW 46.70.023.**Pawnbrokers and secondhand dealers: Chapter 19.60 RCW.*

18.11.050 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Auctioneer" means an individual who calls bids at an auction.

(2) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of his or her audience, constituting a series of invitations for offers for the purchase of goods or real property made by the auctioneer, offers by members of the audience, and the acceptance of the highest or most favorable offer.

(3) "Auction mart" means any fixed or established place designed, intended, or used for the conduct of auctions.

(4) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity that sells or offers to sell goods or real estate at auction or arranges, sponsors, or manages auctions. The term "auction company" shall exclude any sole proprietorship owned by an auctioneer licensed under this chapter whose gross annual sales do not exceed twenty-five thousand dollars.

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

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

(7) "Person" means an individual, partnership, association, corporation, or any other form of business enterprise.

(8) "Goods" mean wares, chattels, merchandise, or personal property owned or consigned, which may be lawfully kept or offered for sale.

(9) "License" means state authority to operate as an auctioneer or auction company, which authority is conferred by issuance of a certificate of registration subject to annual renewal.

(10) "Licensee" means an auctioneer or auction company registered under this chapter. [1986 c 324 § 2; 1982 c 205 § 5.]

18.11.060 Administration of chapter—Fees. This chapter shall be administered under chapter 43.24 RCW. The director shall set registration and renewal fees in accordance with RCW 43.24.086. If an auctioneer or auction company does not renew a license before it expires, the renewal shall be subject to payment of a penalty fee. [1986 c 324 § 3; 1982 c 205 § 2.]

18.11.070 License required—Exceptions. (1) It is unlawful for any person to act as an auctioneer or for an auction company to engage in any business in this state without a license.

(2) This chapter does not apply to:

(a) An auction of goods conducted by an individual who personally owns those goods and who did not acquire those goods for resale;

(b) An auction conducted by or under the direction of a public authority;

(c) An auction held under judicial order in the settlement of a decedent's estate;

(d) An auction which is required by law to be at auction;

(e) An auction conducted by or on behalf of a political organization or a charitable corporation or association if the person conducting the sale receives no compensation;

(f) An auction of livestock or agricultural products which is conducted under chapter 16.65 or 20.01 RCW. Auctions not regulated under chapter 16.65 or 20.01 RCW shall be fully subject to the provisions of this chapter;

(g) An auction held under chapter 19.150 RCW;

(h) An auction of an abandoned vehicle under chapter 46.55 RCW; or

(i) An auction of fur pelts conducted by any cooperative association organized under chapter 23.86 RCW or its wholly owned subsidiary. In order to qualify for this exemption, the fur pelts must be from members of the association. However, the association, without loss of the exemption, may auction pelts that it purchased from nonmembers for the purpose of completing lots or orders, so long as the purchased pelts do not exceed fifteen percent of the total pelts auctioned. [1999 c 398 § 1; 1989 c 307 § 43; 1988 c 240 § 19; 1986 c 324 § 4; 1982 c 205 § 6.]

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Additional notes found at www.leg.wa.gov

18.11.075 Secondhand property, when exempt. The department of licensing may exempt, by rule, secondhand property bought or received on consignment or sold at an auction conducted by a licensed auctioneer or auction company from RCW 19.60.050 or 19.60.055. [1993 c 348 § 1.]

18.11.085 Auctioneer certificate of registration—Requirements. Every individual, before acting as an auctioneer, shall obtain an auctioneer certificate of registration. To be licensed as an auctioneer, an individual shall meet all of the following requirements:

(1) Be at least eighteen years of age or sponsored by a licensed auctioneer.

(2) File with the department a completed application on a form prescribed by the director.

(3) Show that the proper tax registration certificate required by RCW 82.32.030 has been obtained from the department of revenue.

(4) Pay the auctioneer registration fee required under the agency rules adopted pursuant to this chapter.

(5) Except as otherwise provided under RCW 18.11.121, file with the department an auctioneer surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

(6) Have no disqualifications under RCW 18.11.160 or 18.235.130. [2002 c 86 § 206; 1987 c 336 § 1; 1986 c 324 § 5.]

Additional notes found at www.leg.wa.gov

18.11.095 Auction company certificate of registration—Requirements. Every person, before operating an auction company as defined in RCW 18.11.050, shall obtain an auction company certificate of registration.

(1) Except as provided in subsection (2) of this section, to be licensed as an auction company, a person shall meet all of the following requirements:

(a) File with the department a completed application on a form prescribed by the director.

(b) Sign a notarized statement included on the application form that all auctioneers hired by the auction company to do business in the state shall be properly registered under this chapter.

(c) Show that the proper tax registration certificate required by RCW 82.32.030 has been obtained from the department of revenue.

(d) Pay the auction company registration fee required under the agency rules adopted pursuant to this chapter.

(e) File with the department an auction company surety bond in the amount and form required by RCW 18.11.121 and the agency rules adopted pursuant to this chapter.

(f) Have no disqualifications under RCW 18.11.160 or 18.235.130.

(2) An auction company shall not be charged a license fee if it is a sole proprietorship or a partnership owned by an auctioneer or auctioneers, each of whom is licensed under this chapter, and if it has in effect a surety bond or bonds or other security approved by the director in the amount that would otherwise be required for an auction company to be granted or to retain a license under RCW 18.11.121. [2002 c 86 § 207; 1987 c 336 § 5; 1986 c 324 § 6.]

Additional notes found at www.leg.wa.gov

18.11.100 Nonresident auctioneers and auction companies. (1) Nonresident auctioneers and auction companies are required to comply with the provisions of this chapter, chapter 18.235 RCW, and the rules of the department as a condition of conducting business in the state.

(2) The application of a nonresident under this chapter shall constitute the appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to the business of an auctioneer or an auction company. [2002 c 86 § 208; 1986 c 324 § 7; 1985 c 7 § 9; 1982 c 205 § 8.]

Additional notes found at www.leg.wa.gov

18.11.121 Surety bond or security required. (1) Except as provided in this section, each auctioneer and each auction company shall as a condition to the granting and retention of a license have on file with the department an approved surety bond or other security in lieu of a bond. However, if an auction company is a sole proprietorship or a partnership and has on file with the department a surety bond or other security approved by the director in the amount that would otherwise be required for an auction company to be granted or to retain a license under this section, then no separate bond or bonds shall be required for the sole proprietor or any individual partner to act as an auctioneer for the sole proprietorship or partnership. The bond or other security of an auctioneer shall be in the amount of five thousand dollars.

(2016 Ed.)

(2) The bond or other security of an auction company shall be in an amount not less than five thousand dollars and not more than twenty-five thousand dollars. The amount shall be based on the value of the goods and real estate sold at auctions conducted, supervised, arranged, sponsored, or managed by the auction company during the previous calendar year or, for a new auction company, the estimated value of the goods and real estate to be sold at auction during the current calendar year. The director shall establish by rule the procedures to be used for determining the amount of auction company bonds or other security.

(3) In lieu of a surety bond, an auctioneer or auction company may deposit with the department any of the following:

(a) Savings accounts assigned to the director;

(b) Certificates of deposit payable to the director;

(c) Investment certificates or share accounts assigned to the director; or

(d) Any other security acceptable to the director.

All obligations and remedies relating to surety bonds authorized by this section shall apply to deposits filed with the director.

(4) Each bond shall comply with all of the following:

(a) Be executed by the person seeking the license as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state;

(c) Be conditioned on compliance with all provisions of this chapter and the agency rules adopted pursuant to this chapter, including payment of any administrative fines assessed against the licensee; and

(d) Remain in effect for one year after expiration, revocation, or suspension of the license.

(5) If any licensee fails or is alleged to have failed to comply with the provisions of this chapter or the agency rules adopted pursuant to this chapter, the director may hold a hearing in accordance with chapter 34.05 RCW, determine those persons who are proven claimants under the bond, and, if appropriate, distribute the bond proceeds to the proven claimants. The state or an injured person may also bring an action against the bond in superior court. The liability of the surety shall be only for actual damages and shall not exceed the amount of the bond.

(6) Damages that exceed the amount of the bond may be remedied by actions against the auctioneer or the auction company under RCW 18.11.260 or other available remedies at law. [1987 c 336 § 2; 1986 c 324 § 8.]

18.11.130 Written contract required—Penalty. No goods or real estate shall be sold at auction until the auctioneer or auction company has entered into a written contract or agreement with the owner or consignor in duplicate which contains the terms and conditions upon which the licensee receives or accepts the property for sale at auction.

A person who violates this section shall be subject to an administrative fine in a sum not exceeding five hundred dollars for each violation. [1986 c 324 § 9; 1982 c 205 § 11.]

18.11.140 Written records required—Penalty. Every person engaged in the business of selling goods or real estate at auction shall keep written records for a period of three

years available for inspection which indicate clearly the name and address of the owner or consignor of the goods or real estate, the terms of acceptance and sale, and a copy of the signed written contract required by RCW 18.11.130. A person who violates this section shall be subject to an administrative fine in a sum not exceeding five hundred dollars for each violation. [1986 c 324 § 10; 1982 c 205 § 12.]

18.11.150 Display of certificate of registration or renewal card required—Penalty. All auctioneers and auction companies shall have their certificates of registration prominently displayed in their offices and the current renewal card or a facsimile available on demand at all auctions conducted or supervised by the licensee.

A person who violates this section shall be subject to an administrative fine in a sum not exceeding one hundred dollars for each violation. [1986 c 324 § 11; 1982 c 205 § 13.]

18.11.160 License—Prohibition on issuance—Disciplinary action—License suspension. (1) Except as provided in RCW 9.97.020, no license shall be issued by the department to any person who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy, fraud, theft, receiving stolen goods, unlawful issuance of checks or drafts, or other similar offense, or to any partnership of which the person is a member, or to any association or corporation of which the person is an officer or in which as a stockholder the person has or exercises a controlling interest either directly or indirectly.

(2) In addition to the unprofessional conduct described in RCW 18.235.130, the director has the authority to take disciplinary action for any of the following conduct, acts, or conditions:

(a) Underreporting to the department of sales figures so that the auctioneer or auction company surety bond is in a lower amount than required by law;

(b) Nonpayment of an administrative fine prior to renewal of a license; and

(c) Any other violations of this chapter.

(3) The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [2016 c 81 § 8; 2002 c 86 § 209; 1997 c 58 § 814; 1986 c 324 § 12; 1982 c 205 § 14.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.11.170 Unauthorized practice—Penalties. Any auctioneer and any auction company that conducts business within this state without a license or after the suspension or revocation of his or her license shall be fined by the department five hundred dollars for the first offense and one thou-

sand dollars for the second or subsequent offense. [1986 c 324 § 13; 1982 c 205 § 15.]

18.11.180 Compensation of nonlicensed person—Penalties. It shall be unlawful for a licensed auctioneer or licensed auction company to pay compensation in money or otherwise to anyone not licensed under this chapter to render any service or to do any act forbidden under this chapter to be rendered or performed except by licensees. The department may fine any person who violates this section five hundred dollars for the first offense and one thousand dollars for the second or subsequent offense. Furthermore, the violation of this section by any licensee shall be, in the discretion of the department, sufficient cause for taking any actions listed under RCW 18.235.110. [2002 c 86 § 210; 1986 c 324 § 14; 1982 c 205 § 16.]

Additional notes found at www.leg.wa.gov

18.11.190 Actions for compensation for services. No action or suit may be instituted in any court of this state by any person, partnership, association, or corporation not licensed as an auctioneer and as an auction company to recover compensation for an act done or service rendered which is prohibited under this chapter. [1986 c 324 § 15; 1982 c 205 § 17.]

18.11.200 Director—Authority to adopt rules. The director shall adopt rules for the purpose of carrying out and developing this chapter, including rules governing the conduct of inspections. [2002 c 86 § 211; 1986 c 324 § 16; 1982 c 205 § 18.]

Additional notes found at www.leg.wa.gov

18.11.205 Director—Authority to impose administrative fines. The director shall impose and collect the administrative fines authorized by this chapter. Any administrative fine imposed under this chapter or the agency rules adopted pursuant to this chapter may be appealed under chapter 34.05 RCW, the administrative procedure act. Assessment of an administrative fine shall not preclude the initiation of any disciplinary, civil, or criminal action for the same or similar violations. [1986 c 324 § 17.]

18.11.210 Newspaper advertisements—Name and license number required—Penalty. All newspaper advertising regarding auctions that is purchased by an auctioneer or an auction company licensed under this chapter shall include the auctioneer's or auction company's name and license number. Any auctioneer or auction company that violates this section is subject to an administrative fine of one hundred dollars per violation. [1986 c 324 § 19; 1984 c 189 § 1.]

18.11.220 Rights of clients. The client of an auctioneer or auction company has a right to (1) an accounting for any money that the auctioneer or auction company receives from the sale of the client's goods, (2) payment of all money due to the client within twenty-one calendar days unless the parties have mutually agreed in writing to another time of payment, and (3) bring an action against the surety bond or other security filed in lieu of the surety bond for any violation of this

chapter or the rules adopted pursuant to this chapter. [1987 c 336 § 3; 1986 c 324 § 20.]

18.11.230 Trust account required for client funds.

Auction proceeds due to a client that are received by the auctioneer or auction company and not paid to the client within twenty-four hours of the sale shall be deposited no later than the next business day by the auctioneer or auction company in a trust account for clients in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in the state. The auctioneer or auction company shall draw on the trust account only to pay proceeds to clients, or such other persons who are legally entitled to such proceeds, and to obtain the sums due to the auctioneer or auction company for services as set out in the written contract required under RCW 18.11.130. Funds in the trust account shall not be subject to the debt of the auctioneer or auction company and shall not be used for personal reasons or other business reasons. [1987 c 336 § 4; 1986 c 324 § 21.]

18.11.240 Bidding—Prohibited practices—Penalty.

The following requirements shall apply to bidding at auctions:

(1) An auctioneer conducting an auction and an auction company where an auction is being held shall not bid on or offer to buy any goods or real property at the auction unless the auctioneer or the auction company discloses the name of the person on whose behalf the bid or offer is being made.

(2) An auctioneer and an auction company shall not use any method of bidding at an auction that will allow goods or real property to be purchased in an undisclosed manner on behalf of the auctioneer or auction company.

(3) At a public auction conducted or supervised by an auctioneer or auction company, the auctioneer or auction company shall not fictitiously raise any bid, knowingly permit any person to make a fictitious bid, or employ or use another person to act as a bidder or buyer.

(4) All goods or real property offered for sale at an auction shall be subject to a reserve or a confirmation from the owner or consignor unless otherwise indicated by the auctioneer or auction company. Except as provided in this subsection, an auctioneer or auction company shall not use any method of bidding at an auction that allows the auctioneer or auction company to avoid selling any property offered for sale at auction.

(5) A licensee who violates any provision of this section shall be subject to an administrative fine in a sum not exceeding five hundred dollars for each violation. [1986 c 324 § 22.]

18.11.250 Limitation on real estate auctions. Auctioneers and auction companies may call for bids on real estate but only persons licensed under chapter 18.85 RCW may perform activities regulated under that chapter. [1986 c 324 § 23.]

18.11.260 Application of Consumer Protection Act.

A violation of this chapter is hereby declared to affect the public interest and to offend public policy. Any violation, act, or practice by an auctioneer or auction company which is unfair or deceptive, shall constitute an unfair or deceptive act

or practice in violation of RCW 19.86.020. The remedies and sanctions provided in this section shall not preclude application of other available remedies and sanctions. [1986 c 324 § 25.]

18.11.270 License, certificate, or registration suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license, certificate, or registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license, certificate, or registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure, certification, or registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 4.]

Additional notes found at www.leg.wa.gov

18.11.280 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 212.]

Additional notes found at www.leg.wa.gov

18.11.290 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 2.]

18.11.901 Short title. This chapter may be known and cited as the "auctioneer registration act." [1986 c 324 § 1.]

18.11.903 Effective date—1986 c 324. This act shall take effect on July 1, 1986. [1986 c 324 § 29.]

Chapter 18.16 RCW

COSMETOLOGISTS, HAIR DESIGNERS, BARBERS, MANICURISTS, AND ESTHETICIANS

(Formerly: Cosmetologists, barbers, and manicurists)

Sections

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18.16.280	Cosmetology apprenticeship program.
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18.16.300	Military training or experience.
18.16.305	Recognition as institution of postsecondary study.
18.16.900	Short title.
18.16.907	Effective date—1984 c 208.

18.16.010 Intent. The legislature recognizes that the practices of cosmetology, hair design, barbering, manicuring, and esthetics involve the use of tools and chemicals which may be dangerous when mixed or applied improperly, and therefore finds it necessary in the interest of the public health, safety, and welfare to regulate those practices in this state. [2015 c 62 § 13; 2002 c 111 § 1; 1984 c 208 § 1.]

Additional notes found at www.leg.wa.gov

18.16.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Apprentice" means a person who is engaged in a state-approved apprenticeship program and who must receive a wage or compensation while engaged in the program.

(2) "Apprentice monthly report" means the apprentice record of daily activities and the number of hours completed in each course of a curriculum that is prepared monthly by the approved apprenticeship program and provided to the apprentice, audited annually by the department, and kept on file by the approved apprenticeship program for three years.

(3) "Apprentice trainer" means a person who gives training to an apprentice in an approved apprenticeship program and who is approved under RCW 18.16.280.

(4) "Apprenticeship program" means a state-approved apprenticeship program pursuant to chapter 49.04 RCW and approved under RCW 18.16.280 for the training of cosmetology, hair design, barbering, esthetics, master esthetics, and manicuring.

(5) "Apprenticeship training committee" means a committee approved by the Washington apprenticeship and training council established in chapter 49.04 RCW.

(6) "Approved apprenticeship shop" means a salon/shop that has been approved under RCW 18.16.280 and chapter 49.04 RCW to participate in an apprenticeship program.

(7) "Approved security" means surety bond.

(8) "Barber" means a person licensed under this chapter to engage in the practice of barbering.

(9) "Board" means the cosmetology, hair design, barbering, esthetics, and manicuring advisory board.

(10) "Cosmetologist" means a person licensed under this chapter to engage in the practice of cosmetology.

(11) "Crossover training" means training approved by the director as training hours that may be credited to current licensees for similar training received in another profession licensed under this chapter.

(12) "Curriculum" means the courses of study taught at a school, online training by a school, in an approved apprenticeship program established by the Washington state apprenticeship and training council and conducted in an approved salon/shop, or online training by an approved apprenticeship program, set by rule under this chapter, and approved by the department. After consulting with the board, the director may set by rule a percentage of hours in a curriculum, up to a maximum of ten percent, that could include hours a student receives while training in a salon/shop under a contract approved by the department. Each curriculum must include at least the following required hours:

(a) School curriculum:

(i) Cosmetologist, one thousand six hundred hours;

(ii) Hair design, one thousand four hundred hours;

(iii) Barber, one thousand hours;

(iv) Manicurist, six hundred hours;

(v) Esthetician, seven hundred fifty hours;

(vi) Master esthetician either:

(A) One thousand two hundred hours; or

(B) Esthetician licensure plus four hundred fifty hours of training;

(vi) [(vii)] Instructor-trainee, five hundred hours, except that an instructor-trainee may submit documentation that provides evidence of experience as a licensed cosmetologist, hair designer, barber, manicurist, esthetician, or master esthetician for competency evaluation toward credit of not more than three hundred hours of instructor-training.

(b) Apprentice training curriculum:

(i) Cosmetologist, two thousand hours;

(ii) Hair design, one thousand seven hundred fifty hours;

(iii) Barber, one thousand two hundred hours;

(iv) Manicurist, eight hundred hours;

(v) Esthetician, eight hundred hours;

(vi) Master esthetician, one thousand four hundred hours.

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

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

(15) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

(16) "Hair design" means the practice of arranging, dressing, cutting, trimming, styling, shampooing, permanent waving, chemical relaxing, straightening, curling, bleaching, lightening, coloring, mustache and beard design, and superficial skin stimulation of the scalp.

(17) "Hair designer" means a person licensed under this chapter to engage in the practice of hair design.

(18) "Individual license" means a cosmetology, hair design, barber, manicurist, esthetician, master esthetician, or instructor license issued under this chapter.

(19) "Instructor" means a person who gives instruction in a school, or who provides classroom theory training to

apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this chapter, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a school, or who has documented experience as an instructor for more than five hundred hours in another state in the curriculum of study, and has passed a licensing examination approved or administered by the director. An applicant who holds a degree in education from an accredited postsecondary institution shall upon application be licensed as an instructor to give instruction in a school, or to provide classroom theory training to apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this chapter. An applicant who holds an instructional credential from an accredited community or technical college and who has passed a licensing examination approved or administered by the director shall upon application be licensed as an instructor to give instruction in a school, or to provide classroom theory training to apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this chapter. To be approved as an "instructor" in an approved apprenticeship program, the instructor must be a competent instructor as defined in rules adopted under chapter 49.04 RCW.

(20) "Instructor-trainee" means a person who is currently licensed in this state as a cosmetologist, hair designer, barber, manicurist, esthetician, or master esthetician, and is enrolled in an instructor-trainee curriculum in a school licensed under this chapter.

(21) "Location license" means a license issued under this chapter for a salon/shop, school, personal services, or mobile unit.

(22) "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.

(23) "Master esthetician" means a person licensed under this chapter to engage in the practice of master esthetics.

(24) "Mobile unit" is a location license under this chapter where the practice of cosmetology, barbering, esthetics, master esthetics, or manicuring is conducted in a mobile structure. Mobile units must conform to the health and safety standards set by rule under this chapter.

(25) "Online training" means theory training provided online, by a school licensed under this chapter or an approved apprenticeship program established by the Washington state apprenticeship and training council, in the areas of cosmetology, hair design, master esthetics, manicuring, barbering, esthetics, and instructor-training.

(26) "Person" means any individual, partnership, professional service corporation, joint stock association, joint venture, or any other entity authorized to do business in this state.

(27) "Personal services" means a location licensed under this chapter where the practice of cosmetology, hair design, barbering, manicuring, esthetics, or master esthetics is performed for clients in the client's home, office, or other location that is convenient for the client.

(28) "Practice of barbering" means the cutting, trimming, arranging, dressing, curling, shampooing, shaving, and mustache and beard design of the hair of the face, neck, and scalp.

(29) "Practice of cosmetology" means arranging, dressing, cutting, trimming, styling, shampooing, permanent waving, chemical relaxing, straightening, curling, bleaching, lightening, coloring, waxing, tweezing, shaving, and mus-

tache and beard design of the hair of the face, neck, and scalp; temporary removal of superfluous hair by use of depilatories, waxing, or tweezing; manicuring and pedicuring, limited to cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and nails of the hands and feet, excluding the application and removal of sculptured or otherwise artificial nails; esthetics limited to toning the skin of the scalp, stimulating the skin of the body by the use of preparations, tonics, lotions, or creams; and tinting eyelashes and eyebrows.

(30) "Practice of esthetics" means the care of the skin for compensation by application, use of preparations, antiseptics, tonics, essential oils, exfoliants, superficial and light peels, or by any device, except laser, or equipment, electrical or otherwise, or by wraps, compresses, cleansing, conditioning, stimulation, superficial skin stimulation, pore extraction, or product application and removal; temporary removal of superfluous hair by means of lotions, creams, appliance, waxing, threading, tweezing, or depilatories, including chemical means; and application of product to the eyelashes and eyebrows, including extensions, design and treatment, tinting and lightening of the hair, excluding the scalp. Under no circumstances does the practice of esthetics include the administration of injections.

(31) "Practice of manicuring" means the cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and the nails of the hands or feet, and the application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.

(32) "Practice of master esthetics" means the care of the skin for compensation including all of the methods allowed in the definition of the practice of esthetics. It also includes the performance of medium depth peels and the use of medical devices for care of the skin and permanent hair reduction. The medical devices include, but are not limited to, lasers, light, radio frequency, plasma, intense pulsed light, and ultrasound. The use of a medical device must comply with state law and rules, including any laws or rules that require delegation or supervision by a licensed health professional acting within the scope of practice of that health profession.

(33) "Salon/shop" means any building, structure, or any part thereof, other than a school, where the commercial practice of cosmetology, barbering, hair design, esthetics, master esthetics, or manicuring is conducted; provided that any person, except employees of a salon/shop, who operates from a salon/shop is required to meet all salon/shop licensing requirements and may participate in the apprenticeship program when certified as established by the Washington state apprenticeship and training council established in chapter 49.04 RCW.

(34) "School" means any establishment that offers curriculum of instruction in the practice of cosmetology, hair design, barbering, esthetics, master esthetics, manicuring, or instructor-trainee to students and is licensed under this chapter.

(35) "Student" means a person sixteen years of age or older who is enrolled in a school licensed under this chapter and receives instruction in any of the curricula of cosmetology, barbering, hair design, esthetics, master esthetics, manicuring, or instructor-training with or without tuition, fee, or cost, and who does not receive any wage or commission.

(36) "Student monthly report" means the student record of daily activities and the number of hours completed in each course of a curriculum that is prepared monthly by the school and provided to the student, audited annually by the department, and kept on file by the school for three years. [2015 c 62 § 1. Prior: 2013 c 187 § 1; 2008 c 20 § 1; 2003 c 400 § 2; 2002 c 111 § 2; 1991 c 324 § 1; 1984 c 208 § 2.]

Additional notes found at www.leg.wa.gov

18.16.030 Director—Powers and duties. In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director shall have the following powers and duties:

- (1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;
- (2) To adopt rules necessary to implement this chapter;
- (3) To prepare and administer or approve the preparation and administration of licensing examinations;
- (4) To establish minimum safety and sanitation standards for schools, instructors, cosmetologists, barbers, hair designers, manicurists, estheticians, master estheticians, salons/shops, personal services, and mobile units;
- (5) To establish curricula for the training of students and apprentices under this chapter;
- (6) To maintain the official department record of applicants and licensees;
- (7) To establish by rule the procedures for an appeal of an examination failure;
- (8) To set license expiration dates and renewal periods for all licenses consistent with this chapter;
- (9) To ensure that all informational notices produced and mailed by the department regarding statutory and regulatory changes affecting any particular class of licensees are mailed to each licensee in good standing or on inactive status in the affected class whose mailing address on record with the department has not resulted in mail being returned as undeliverable for any reason; and
- (10) To make information available to the department of revenue to assist in collecting taxes from persons required to be licensed under this chapter. [2015 c 62 § 2; 2013 c 187 § 2; 2008 c 20 § 2; 2004 c 51 § 7. Prior: 2002 c 111 § 3; 2002 c 86 § 213; 1991 c 324 § 2; 1984 c 208 § 7.]

Additional notes found at www.leg.wa.gov

18.16.050 Advisory board—Members—Compensation. (1) There is created a state cosmetology, hair design, barbering, esthetics, and manicuring advisory board consisting of a maximum of ten members appointed by the director. These members of the board shall include: A representative of private schools licensed under this chapter; a representative from an approved apprenticeship program conducted in an approved salon/shop; a representative of public vocational technical schools licensed under this chapter; a consumer who is unaffiliated with the cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring industry; and six members who are currently practicing licensees who have been engaged in the practice of manicuring, esthetics, master esthetics, barbering, hair design, or cosmetology for at least three years. Members shall serve a term of three years. Any board member may be removed for just cause. The director

may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term.

(2) Board members shall be entitled to compensation pursuant to RCW 43.03.240 for each day spent conducting official business and to reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060.

(3) The board may seek the advice and input of officials from the following state agencies: (a) The workforce training and education coordinating board; (b) the employment security department; (c) the department of labor and industries; (d) the department of health; (e) the department of licensing; and (f) the department of revenue. [2015 c 62 § 3; 2013 c 187 § 3; 2008 c 20 § 3; 2002 c 111 § 4. Prior: 1998 c 245 § 5; 1998 c 20 § 1; 1997 c 179 § 1; 1995 c 269 § 402; 1991 c 324 § 3; 1984 c 208 § 9.]

Findings—1995 c 269: "The legislature finds that the economic opportunities for cosmetologists, barbers, estheticians, and manicurists have deteriorated in this state as a result of the lack of skilled practitioners, inadequate licensing controls, and inadequate enforcement of health standards. To increase the opportunities for individuals to earn viable incomes in these professions and to protect the general health of the public, the state cosmetology, barbering, esthetics, and manicuring advisory board should be reconstituted and given a new charge to develop appropriate responses to this situation, including legislative proposals." [1995 c 269 § 401.]

Additional notes found at www.leg.wa.gov

18.16.060 License required—Penalty—Exemptions.

(1) It is unlawful for any person to engage in a practice listed in subsection (2) of this section unless the person has a license in good standing as required by this chapter. A license issued under this chapter shall be considered to be "in good standing" except when:

- (a) The license has expired or has been canceled and has not been renewed in accordance with RCW 18.16.110;
- (b) The license has been denied, revoked, or suspended under RCW 18.16.210, 18.16.230, or 18.16.240, and has not been reinstated;
- (c) The license is held by a person who has not fully complied with an order of the director issued under RCW 18.16.210 requiring the licensee to pay restitution or a fine, or to acquire additional training; or
- (d) The license has been placed on inactive status at the request of the licensee, and has not been reinstated in accordance with RCW 18.16.110(3).

(2) The director may take action under RCW 18.235.150 and 18.235.160 against any person who does any of the following without first obtaining, and maintaining in good standing, the license required by this chapter:

- (a) Except as provided in subsections (3) and (4) of this section, engages in the commercial practice of cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring;
- (b) Instructs in a school;
- (c) Operates a school; or
- (d) Operates a salon/shop, personal services, or mobile unit.

(3) A person who receives a license as an instructor may engage in the commercial practice for which he or she held a license when applying for the instructor license without also renewing the previously held license. However, a person licensed as an instructor whose license to engage in a commercial practice is not or at any time was not renewed may

not engage in the commercial practice previously permitted under that license unless that person renews the previously held license.

(4) An apprentice actively enrolled in an apprenticeship program for cosmetology, barbering, hair design, esthetics, master esthetics, or manicuring may engage in the commercial practice as required for the apprenticeship program. [2015 c 62 § 4; 2013 c 187 § 4; 2008 c 20 § 4; 2004 c 51 § 1. Prior: 2002 c 111 § 5; 2002 c 86 § 214; 1991 c 324 § 4; 1984 c 208 § 3.]

Additional notes found at www.leg.wa.gov

18.16.070 Licensing—Persons to whom chapter inapplicable. This chapter shall not apply to persons licensed under other laws of this state who are performing services within their authorized scope of practice and shall not be construed to require a license for students enrolled in a school or an apprentice engaged in a state-approved apprenticeship program as defined in RCW 18.16.020. [2003 c 400 § 3; 1984 c 208 § 4.]

Additional notes found at www.leg.wa.gov

18.16.080 Licensing—Other persons to whom chapter inapplicable. Nothing in this chapter prohibits any person authorized under the laws of this state from performing any service for which the person may be licensed, nor prohibits any person from performing services as an electrologist if that person has been otherwise certified, registered, or trained as an electrologist.

This chapter does not apply to persons employed in the care or treatment of patients in hospitals or employed in the care of residents of nursing homes and similar residential care facilities. [1984 c 208 § 19.]

18.16.090 Examinations. Examinations for licensure under this chapter shall be conducted at such times and places as the director determines appropriate. Examinations shall consist of tests designed to reasonably measure the applicant's knowledge of safe and sanitary practices and may also include the applicant's knowledge of this chapter and rules adopted pursuant to this chapter. The director may establish by rule a performance examination in addition to any other examination. The director shall establish by rule the minimum passing score for all examinations and the requirements for reexamination of applicants who fail the examination or examinations. The director may allow an independent person to conduct the examinations at the expense of the applicants.

The director shall take steps to ensure that after completion of the required course or apprenticeship program, applicants may promptly take the examination and receive the results of the examination. [2003 c 400 § 4; 2002 c 111 § 6; 1991 c 324 § 5; 1984 c 208 § 10.]

Additional notes found at www.leg.wa.gov

18.16.100 Issuance of licenses—Requirements. (1) Upon completion of an application approved by the department and payment of the proper fee, the director shall issue the appropriate license to any person who:

- (a) Is at least seventeen years of age or older;
- (b)(i) Has completed and graduated from a school licensed under this chapter in a curriculum approved by the

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director consisting of the hours of training required under this chapter for a school curriculum, or has met the requirements in RCW 18.16.020 or 18.16.130; or

(ii) Has successfully completed a state-approved apprenticeship program consisting of the hours of training required under this chapter for the apprentice training curriculum; and

(c) Has received a passing grade on the appropriate licensing examination approved or administered by the director.

(2) A person currently licensed under this chapter may qualify for examination and licensure, after the required examination is passed, in another category if he or she has completed the crossover training course.

(3) Upon completion of an application approved by the department, certification of insurance, and payment of the proper fee, the director shall issue a location license to the applicant.

(4) The director may consult with the state board of health and the department of labor and industries in establishing training, apprenticeship, and examination requirements. [2008 c 20 § 5; 2003 c 400 § 5; 2002 c 111 § 7; 1991 c 324 § 6; 1984 c 208 § 5.]

Additional notes found at www.leg.wa.gov

18.16.110 Issuance of licenses—Renewals—Reinstatement—Duplicates. (1) The director shall issue the appropriate license to any applicant who meets the requirements as outlined in this chapter.

(2) Except as provided in RCW 18.16.260:

(a) Failure to renew a license by its expiration date subjects the holder to a penalty fee and payment of each year's renewal fee, at the current rate; and

(b) A person whose license has not been renewed within one year after its expiration date shall have the license canceled and shall be required to submit an application, pay the license fee, meet current licensing requirements, and pass any applicable examination or examinations, in addition to the other requirements of this chapter, before the license may be reinstated.

(3) In lieu of the requirements of subsection (2)(a) of this section, a license placed on inactive status under RCW 18.16.290 may be reinstated to good standing upon receipt by the department of: (a) Payment of a renewal fee, without penalty, for a two-year license commencing on the date the license is reinstated; and (b) if the license was on inactive status during any time that the board finds that a health or other requirement applicable to the license has changed, evidence showing that the holder of the license has successfully completed, from a school licensed under RCW 18.16.140, at least the number of curriculum clock hours of instruction that the board deems necessary for a licensee to be brought current with respect to such changes, but in no case may the number of hours required under this subsection exceed four hours per year that the license was on inactive status.

(4) Nothing in this section authorizes a person whose license has expired or is on inactive status to engage in a practice prohibited under RCW 18.16.060 until the license is renewed or reinstated.

(5) Upon request and payment of an additional fee to be established by rule by the director, the director shall issue a

duplicate license to an applicant. [2004 c 51 § 3; 2002 c 111 § 8; 1991 c 324 § 7; 1984 c 208 § 12.]

Additional notes found at www.leg.wa.gov

18.16.130 Issuance of licenses—Persons licensed in other jurisdictions. (1) Any person who is properly licensed in any state, territory, or possession of the United States, or foreign country shall be eligible for examination if the applicant submits the approved application and fee and provides proof to the director that he or she is currently licensed in good standing as a cosmetologist, hair designer, barber, manicurist, esthetician, master esthetician, instructor, or the equivalent in that jurisdiction. Upon passage of the required examinations the appropriate license will be issued.

(2)(a) The director shall, upon passage of the required examinations, issue a license as master esthetician to an applicant who submits the approved application and fee and provides proof to the director that the applicant is currently licensed in good standing in esthetics in any state, territory, or possession of the United States, or foreign country and holds a diplomate of the comite international d'esthetique et de cosmetologie diploma, or an international therapy examination council diploma, or a certified credential awarded by the national coalition of estheticians, manufacturers/distributors & associations.

(b) The director may upon passage of the required examinations, issue a master esthetician license to an applicant that is currently licensed in esthetics in any other state, territory, or possession of the United States, or foreign country and submits an approved application and fee and provides proof to the director that he or she is licensed in good standing and:

(i) The licensing state, territory, or possession of the United States, or foreign country has licensure requirements that the director determines are substantially equivalent to a master esthetician license in this state; or

(ii) The applicant has certification or a diploma or other credentials that the director determines has licensure requirements that are substantially equivalent to the degree listed in (a) of this subsection. [2015 c 62 § 5; 2013 c 187 § 5; 1991 c 324 § 10; 1984 c 208 § 11.]

18.16.140 School licenses—Application—Approved security—Issuance—Changes in application information—Changes in controlling interest—Posting of licenses. (1) Any person wishing to operate a school shall, before opening such a school, pay the license fee and file with the director for approval a license application containing the following information:

(a) The names and addresses of all owners, managers, and instructors;

(b) A copy of the school's curriculum satisfying the curriculum requirements established by the director;

(c) A sample copy of the school's catalog, brochure, enrollment contract, and cancellation and refund policies that will be used or distributed by the school to students and the public;

(d) A surety bond in an amount not less than ten thousand dollars, or ten percent of the annual gross tuition collected by the school, whichever is greater. The approved security shall not exceed fifty thousand dollars and shall run to the state of Washington for the protection of unearned pre-

paid student tuition. The school shall attest to its gross tuition at least annually on forms provided by the department. When a new school license is being applied for, the applicant will estimate its annual gross tuition to establish a bond amount. This subsection shall not apply to community colleges and vocational technical schools.

Upon approval of the application and documents, the director shall issue a license to operate a school.

(2) Changes to the information provided by schools shall be submitted to the department within fifteen days of the implementation date.

(3) A change involving the controlling interest of the school requires a new license application and fee. The new application shall include all required documentation, proof of ownership change, and be approved prior to a license being issued.

(4) School and instructor licenses issued by the department shall be posted in the reception area of the school. [2002 c 111 § 9; 1991 c 324 § 11; 1987 c 445 § 1; 1984 c 208 § 6.]

Additional notes found at www.leg.wa.gov

18.16.150 Schools—Compliance with chapter. Schools shall be audited and inspected by the director or the director's designee for compliance with this chapter at least once a year. If the director determines that a licensed school is not maintaining the standards required according to this chapter, written notice thereof shall be given to the school. A school which fails to correct these conditions to the satisfaction of the director within a reasonable time may be subject to penalties imposed under RCW 18.235.110. [2002 c 86 § 215; 1997 c 178 § 1; 1991 c 324 § 12; 1984 c 208 § 8.]

Additional notes found at www.leg.wa.gov

18.16.160 Schools—Claims against—Procedure. In addition to any other legal remedy, any student or instructor-trainee having a claim against a school may bring suit upon the approved security required in RCW 18.16.140(1)(d) in the superior or district court of Thurston county or the county in which the educational services were offered by the school. Action upon the approved security shall be commenced by filing the complaint with the clerk of the appropriate superior or district court within one year from the date of the cancellation of the approved security: PROVIDED, That no action shall be maintained upon the approved security for any claim which has been barred by any nonclaim statute or statute of limitations of this state. Service of process in an action upon the approved security shall be exclusively by service upon the director. Two copies of the complaint shall be served by registered or certified mail upon the director at the time the suit is started. Such service shall constitute service on the approved security and the school. The director shall transmit the complaint or a copy thereof to the school at the address listed in the director's records and to the surety within forty-eight hours after it has been received. The approved security shall not be liable in an aggregate amount in excess of the amount named in the approved security. In any action on an approved security, the prevailing party is entitled to reasonable attorney's fees and costs.

The director shall maintain a record, available for public inspection, of all suits commenced under this chapter upon approved security. [2004 c 51 § 8; 1991 c 324 § 13; 1984 c 208 § 16.]

Additional notes found at www.leg.wa.gov

18.16.170 Expiration of licenses. (1) Subject to subsection (2) of this section, licenses issued under this chapter expire as follows:

(a) A salon/shop, personal services, or mobile unit license expires one year from issuance or when the insurance required by RCW 18.16.175(1)(g) expires, whichever occurs first;

(b) A school license expires one year from issuance; and

(c) Cosmetologist, hair designer, barber, manicurist, esthetician, master esthetician, and instructor licenses expire two years from issuance.

(2) The director may provide for expiration dates other than those set forth in subsection (1) of this section for the purpose of establishing staggered renewal periods. [2015 c 62 § 6; 2013 c 187 § 6; 2002 c 111 § 10; 1991 c 324 § 9.]

Additional notes found at www.leg.wa.gov

18.16.175 Salon/shop or mobile unit requirements—Liability insurance—Complaints—Inspection—Registration—Use of motor homes—Posting of licenses. (1) A salon/shop or mobile unit shall meet the following minimum requirements:

(a) Maintain an outside entrance separate from any rooms used for sleeping or residential purposes;

(b) Provide and maintain for the use of its customers adequate toilet facilities located within or adjacent to the salon/shop or mobile unit;

(c) Any room used wholly or in part as a salon/shop or mobile unit shall not be used for residential purposes, except that toilet facilities may be used for both residential and business purposes;

(d) Meet the zoning requirements of the county, city, or town, as appropriate;

(e) Provide for safe storage and labeling of chemicals used in the practices under this chapter;

(f) Meet all applicable local and state fire codes; and

(g) Certify that the salon/shop or mobile unit is covered by a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability.

(2) The director may by rule determine other requirements that are necessary for safety and sanitation of salons/shops, personal services, or mobile units. The director may consult with the state board of health and the department of labor and industries in establishing minimum salon/shop, personal services, and mobile unit safety requirements.

(3) Personal services license holders shall certify coverage of a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability.

(4) Upon receipt of a written complaint that a salon/shop or mobile unit has violated any provisions of this chapter, chapter 18.235 RCW, or the rules adopted under either chapter, or at least once every two years for an existing salon/shop or mobile unit, the director or the director's designee shall

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inspect each salon/shop or mobile unit. If the director determines that any salon/shop or mobile unit is not in compliance with this chapter, the director shall send written notice to the salon/shop or mobile unit. A salon/shop or mobile unit which fails to correct the conditions to the satisfaction of the director within a reasonable time shall, upon due notice, be subject to the penalties imposed by the director under RCW 18.235.110. The director may enter any salon/shop or mobile unit during business hours for the purpose of inspection. The director may contract with health authorities of local governments to conduct the inspections under this subsection.

(5) A salon/shop, personal services, or mobile unit shall obtain a certificate of registration from the department of revenue.

(6) This section does not prohibit the use of motor homes as mobile units if the motor home meets the health and safety standards of this section.

(7) Salon/shop or mobile unit licenses issued by the department must be posted in the salon/shop or mobile unit's reception area.

(8) Cosmetology, hair design, barbering, esthetics, master esthetics, and manicuring licenses issued by the department must be posted at the licensed person's work station. [2015 c 62 § 7; 2013 c 187 § 7; 2008 c 20 § 6. Prior: 2002 c 111 § 11; 2002 c 86 § 216; 1997 c 178 § 2; 1991 c 324 § 15.]

Additional notes found at www.leg.wa.gov

18.16.180 Salon/shop—Apprenticeship shop—Notice required. (1) The director shall prepare and provide to all licensed salons/shops a notice to consumers. At a minimum, the notice shall state that cosmetology, hair design, barber, esthetics, master esthetics, and manicure salons/shops are required to be licensed, that salons/shops are required to maintain minimum safety and sanitation standards, that customer complaints regarding salons/shops may be reported to the department, and a telephone number and address where complaints may be made.

(2) An approved apprenticeship shop must post a notice to consumers in the reception area of the salon/shop stating that services may be provided by an apprentice. At a minimum, the notice must state: "This shop is a participant in a state-approved apprenticeship program. Apprentices in this program are in training and have not yet received a license." [2015 c 62 § 8; 2013 c 187 § 8; 2008 c 20 § 7; 1991 c 324 § 16.]

18.16.190 Location of practice—Penalty—Placebound clients. It is a violation of this chapter for any person to engage in the commercial practice of cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring, except in a licensed salon/shop or the home, office, or other location selected by the client for obtaining the services of a personal service operator, or with the appropriate individual license when delivering services to placebound clients. Placebound clients are defined as persons who are ill, disabled, or otherwise unable to travel to a salon/shop. [2015 c 62 § 9; 2013 c 187 § 9; 1991 c 324 § 20.]

18.16.200 Disciplinary action—Grounds. In addition to the unprofessional conduct described in RCW 18.235.130,

the director may take disciplinary action against any applicant or licensee under this chapter if the licensee or applicant:

(1) Has been found to have violated any provisions of chapter 19.86 RCW;

(2) Has engaged in a practice prohibited under RCW 18.16.060 without first obtaining, and maintaining in good standing, the license required by this chapter;

(3) Has engaged in the commercial practice of cosmetology, hair design, barbering, manicuring, esthetics, or master esthetics in a school;

(4) Has not provided a safe, sanitary, and good moral environment for students in a school or the public;

(5) Has failed to display licenses required in this chapter; or

(6) Has violated any provision of this chapter or any rule adopted under it. [2015 c 62 § 10; 2013 c 187 § 10; 2004 c 51 § 4. Prior: 2002 c 111 § 12; 2002 c 86 § 217; 1991 c 324 § 14; 1984 c 208 § 13.]

Additional notes found at www.leg.wa.gov

18.16.210 Violations—Penalties. If, following a hearing, the director finds that any person or an applicant or licensee has violated any provision of this chapter or any rule adopted under it, the director may impose one or more of the following penalties:

(1) Denial of a license or renewal;

(2) Revocation or suspension of a license;

(3) A fine of not more than five hundred dollars per violation;

(4) Issuance of a reprimand or letter of censure;

(5) Placement of the licensee on probation for a fixed period of time;

(6) Restriction of the licensee's authorized scope of practice;

(7) Requiring the licensee to make restitution or a refund as determined by the director to any individual injured by the violation; or

(8) Requiring the licensee to obtain additional training or instruction. [2002 c 111 § 13; 1984 c 208 § 14.]

Additional notes found at www.leg.wa.gov

18.16.220 Appeal—Procedure. Any person aggrieved by the refusal of the director to issue any license provided for in this chapter, or to renew the same, or by the revocation or suspension of any license issued under this chapter or by the application of any penalty under RCW 18.16.210, shall have the right to appeal the decision of the director to the superior court of the county in which the person maintains his or her place of business. Such appeal shall be filed within thirty days of the director's decision. [1984 c 208 § 15.]

18.16.230 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-con-

ditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 5.]

Additional notes found at www.leg.wa.gov

18.16.240 License suspension—Noncompliance with support order—Reissuance. The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [2002 c 111 § 15; 1997 c 58 § 815.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.16.250 Finding—Consumer protection act. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [2002 c 111 § 14.]

Additional notes found at www.leg.wa.gov

18.16.260 License renewal—Fee—Examination—Fee. (1)(a) Prior to July 1, 2005, (i) a cosmetology licensee who held a license in good standing between June 30, 1999, and June 30, 2003, may request a renewal of the license or an additional license in barbering, manicuring, and/or esthetics; and (ii) a licensee who held a barber, manicurist, or esthetics license between June 30, 1999, and June 30, 2003, may request a renewal of such licenses held during that period.

(b) A license renewal fee, including, if applicable, a renewal fee, at the current rate, for each year the licensee did not hold a license in good standing between July 1, 2001, and the date of the renewal request, must be paid prior to issuance of each type of license requested. After June 30, 2005, any cosmetology licensee wishing to renew an expired license or obtain additional licenses must meet the applicable renewal, training, and examination requirements of this chapter.

(2)(a) Any person holding an active license in good standing as an esthetician prior to January 1, 2015, may be licensed as an esthetician licensee after paying the appropriate license fee.

(b) Prior to January 1, 2015, an applicant for a master esthetician license must have an active license in good standing as an esthetician, pay the appropriate license fee, and pro-

vide the department with proof of having satisfied one or more of the following requirements:

(i)(A)(I) A minimum of thirty-five hours employment as a provider of medium depth peels under the delegation or supervision of a licensed physician, advanced registered nurse practitioner, or physician assistant, or other licensed professional whose licensure permits such delegation or supervision; or

(II) Seven hours of training in theory and application of medium depth peels; and

(B)(I) A minimum of one hundred fifty hours employment as a laser operator under the delegation or supervision of a licensed physician, advanced registered nurse practitioner, or physician assistant, or other licensed professional whose licensure permits such delegation or supervision; or

(II) Seventy-five hours of laser training;

(ii) A national or international diploma or certification in esthetics that is recognized by the department by rule;

(iii) An instructor in esthetics who has been licensed as an instructor in esthetics by the department for a minimum of three years; or

(iv) Completion of one thousand two hundred hours of an esthetic curriculum approved by the department.

(3) The director may, as provided in RCW 43.24.140, modify the duration of any additional license granted under this section to make all licenses issued to a person expire on the same date. [2013 c 187 § 11; 2004 c 51 § 5; 2002 c 111 § 16.]

Additional notes found at www.leg.wa.gov

18.16.270 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 218.]

Additional notes found at www.leg.wa.gov

18.16.280 Cosmetology apprenticeship program. (1) An approved cosmetology apprenticeship program is hereby created. The apprenticeship program allows for the direct entry of individuals into a training program approved as provided in this chapter and chapter 49.04 RCW.

(2) The department of licensing shall adopt rules, including a mandatory requirement that apprentices complete in-classroom theory courses as a part of their training, to provide for the licensure of participants of the apprenticeship program.

(3) Apprenticeship salon/shops participating in the apprenticeship program must:

(a) Be approved as an approved apprenticeship program conducted in an approved salon/shop by the Washington state apprenticeship and training council in accordance with chapter 49.04 RCW; and

(b) Provide the department with the names of all individuals acting as apprentice trainers.

(4) To act as an apprentice trainer, an individual must be approved by the department. To be approved, the trainer must hold a current license in the practice for which he or she is providing training and must have held that license for a minimum of three consecutive years.

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(5) If an approved apprenticeship program or apprenticeship shop implements changes affecting the information required to be provided to the department under this section or rules adopted under this section, the revised information must be submitted to the department before implementing the changes.

(6) The director or the director's designee shall audit and inspect approved apprenticeship shops for compliance with this chapter at least annually. If the director determines that an approved apprenticeship shop is not maintaining the standards required by this chapter, written notice thereof must be given to the approved apprenticeship program and apprenticeship shop. An approved apprenticeship shop that fails to correct the conditions listed in the notice to the satisfaction of the director within a reasonable time may be subject to penalties imposed under RCW 18.235.110. [2008 c 20 § 8; 2006 c 162 § 2; 2003 c 400 § 1.]

Finding—2006 c 162: "The legislature finds that direct-entry apprenticeship programs can be very beneficial to both students and employers. However, there is also concern that apprenticeship programs may reduce the number of students who enroll in traditional cosmetology school. The advisory committee is to update the legislature on the program with an updated final report by December 31, 2008, and is to include an evaluation of the effectiveness of the apprenticeship program, including but not limited to the number of apprentices who complete the program, the number of apprentices who take and pass the licensing examination, and a formal review of any impact the expansion of such an apprenticeship program may have on the enrollment of traditional cosmetology schools, including but not limited to whether the enrollment of traditional cosmetology schools is negatively impacted by the direct-entry apprenticeship programs." [2006 c 162 § 1.]

Additional notes found at www.leg.wa.gov

18.16.290 License—Inactive status. (1) If the holder of an individual license in good standing submits a written and notarized request that the licensee's cosmetology, hair design, barber, manicurist, esthetician and master esthetician, or instructor license be placed on inactive status, together with a fee equivalent to that established by rule for a duplicate license, the department shall place the license on inactive status until the expiration date of the license. If the date of the request is no more than six months before the expiration date of the license, a request for a two-year extension of the inactive status, as provided under subsection (2) of this section, may be submitted at the same time as the request under this subsection.

(2) If the holder of a license placed on inactive status under this section submits, by the expiration date of the license, a written and notarized request to extend that status for an additional two years, the department shall, without additional fee, extend the expiration date of: (a) The licensee's individual license; and (b) the inactive status for two years from the expiration date of the license.

(3) A license placed on inactive status under this section may not be extended more frequently than once in any twenty-four month period or for more than six consecutive years.

(4) If, by the expiration date of a license placed on inactive status under this section, a licensee is unable, or fails, to request that the status be extended and the license is not renewed, the license shall be canceled. [2015 c 62 § 11; 2013 c 187 § 12; 2004 c 51 § 2.]

Additional notes found at www.leg.wa.gov

18.16.300 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 3.]

18.16.305 Recognition as institution of postsecondary study. Schools shall be recognized as institutions of postsecondary study under the following conditions:

(1) The school admits as regular students only those individuals who have earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who are beyond the age of compulsory education as provided in RCW 28A.225.010; and

(2) The school is licensed by name by the department under this chapter to offer one or more training programs beyond the secondary level. [2013 c 201 § 2.]

Intent—2013 c 201: "It is the intent of the legislature to maintain and expand access to postsecondary education and improve opportunities for students. The legislature recognizes that access to federal financial aid is a major avenue for overcoming financial barriers to higher education for many students in Washington. The legislature recognizes that recent federal changes in federal regulations require the adjustment of definitions of certain postsecondary institutions in state statutes to ensure that those schools that currently meet the requirements are eligible for student financial aid programs provided by the federal government." [2013 c 201 § 1.]

18.16.900 Short title. This chapter shall be known and may be cited as the "Washington cosmetologists, hair designers, barbers, manicurists, and estheticians act." [2015 c 62 § 12; 2002 c 111 § 17; 1984 c 208 § 20.]

Additional notes found at www.leg.wa.gov

18.16.907 Effective date—1984 c 208. This act shall take effect July 1, 1984. [1984 c 208 § 23.]

Chapter 18.19 RCW COUNSELORS

Sections

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18.19.020	Definitions.
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18.19.200	Scope of practice—Certified counselors and certified advisors.
18.19.210	Agency affiliated counselors—Employment status—Duty to notify department.
18.19.220	Certified counselors and hypnotherapist advisory committee.
18.19.900	Short title.
18.19.902	Registered counselor credential abolished.

18.19.010 Legislative findings—Insurance benefits not mandated. The qualifications and practices of counselors in this state are virtually unknown to potential clients. Beyond the regulated practices of psychiatry and psychology, there are a considerable variety of disciplines, theories, and

techniques employed by other counselors under a number of differing titles. The legislature recognizes the right of all counselors to practice their skills freely, consistent with the requirements of the public health and safety, as well as the right of individuals to choose which counselors best suit their needs and purposes. This chapter shall not be construed to require or prohibit that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person registered under this chapter. [2001 c 251 § 17; 1987 c 512 § 1.]

Additional notes found at www.leg.wa.gov

18.19.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means (a) an agency or facility operated, licensed, or certified by the state of Washington; (b) a federally recognized Indian tribe located within the state; or (c) a county.

(2) "Agency affiliated counselor" means a person registered under this chapter who is engaged in counseling and employed by an agency. "Agency affiliated counselor" includes juvenile probation counselors who are employees of the juvenile court under RCW 13.04.035 and 13.04.040 and juvenile court employees providing functional family therapy, aggression replacement training, or other evidence-based programs approved by the juvenile rehabilitation administration of the department of social and health services.

(3) "Certified adviser" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(4) "Certified counselor" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(5) "Client" means an individual who receives or participates in counseling or group counseling.

(6) "Counseling" means employing any therapeutic techniques, including but not limited to social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purposes of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

(7) "Counselor" means an individual, practitioner, therapist, or analyst who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, hypnotherapists.

(8) "Department" means the department of health.

(9) "Hypnotherapist" means a person registered under this chapter who is practicing hypnosis as a modality.

(10) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in RCW 18.19.200.

(11) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth

edition of the diagnostic and statistical manual of mental disorders, published in 1994, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

(12) "Secretary" means the secretary of the department or the secretary's designee. [2011 c 86 § 1; 2010 1st sp.s. c 20 § 1; 2008 c 135 § 1; 2001 c 251 § 18; 1991 c 3 § 19; 1987 c 512 § 3.]

Effective date—2010 1st sp.s. c 20: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 13, 2010]." [2010 1st sp.s. c 20 § 2.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: "Sections 1, 2, 7 through 9, and 11 through 19 of this act take effect July 1, 2009." [2008 c 135 § 21.]

Additional notes found at www.leg.wa.gov

18.19.030 Registration required—Counselors. A person may not, as a part of his or her position as an employee of a state agency, practice counseling without being registered to practice as an agency affiliated counselor by the department under this chapter unless exempt under RCW 18.19.040. [2008 c 135 § 2; 2001 c 251 § 19; 1991 c 3 § 20; 1987 c 512 § 2.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

Additional notes found at www.leg.wa.gov

18.19.031 Registered counselor credentials—Limitation on issuance. The department of health may not issue any new registered counselor credentials after July 1, 2009. [2008 c 135 § 22.]

18.19.035 Registration required—Hypnotherapists. A person may not, for a fee or as a part of his or her position as an employee of a state agency, practice hypnotherapy without being registered to practice as a hypnotherapist by the department under this chapter unless exempt under RCW 18.19.040. [2008 c 135 § 3.]

18.19.040 Exemptions. Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice of a profession by a person who is either registered, certified, licensed, or similarly regulated under the laws of this state and who is performing services within the person's authorized scope of practice, including any attorney admitted to practice law in this state when providing counseling incidental to and in the course of providing legal counsel;

(2) The practice of counseling by an employee or trainee of any federal agency, or the practice of counseling by a student of a college or university, if the employee, trainee, or student is practicing solely under the supervision of and accountable to the agency, college, or university, through which he or she performs such functions as part of his or her position for no additional fee other than ordinary compensation;

(3) The practice of counseling by a person for no compensation;

(4) The practice of counseling by persons offering services for public and private nonprofit organizations or charities not primarily engaged in counseling for a fee when

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approved by the organizations or agencies for whom they render their services;

(5) Evaluation, consultation, planning, policy-making, research, or related services conducted by social scientists for private corporations or public agencies;

(6) The practice of counseling by a person under the auspices of a religious denomination, church, or organization, or the practice of religion itself;

(7) The practice of counseling by peer counselors who use their own experience to encourage and support people with similar conditions or activities related to the training of peer counselors; and

(8) Counselors who reside outside Washington state from providing up to ten days per quarter of training or workshops in the state, as long as they do not hold themselves out to be registered or certified in Washington state. [2008 c 135 § 5; 2001 c 251 § 20; 1987 c 512 § 4.]

Additional notes found at www.leg.wa.gov

18.19.050 Powers of secretary—Application of uniform disciplinary act—Public education program. (1) In addition to any other authority provided by law, the secretary has the following authority:

(a) To adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) To set all registration, certification, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(c) To establish forms and procedures necessary to administer this chapter;

(d) To hire clerical, administrative, and investigative staff as needed to implement this chapter;

(e) To issue a registration or certification to any applicant who has met the requirements for registration or certification; and

(f) To establish education equivalency, examination, supervisory, consultation, and continuing education requirements for certified counselors and certified advisers.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of registrations and certifications and the discipline of registrants under this chapter. The secretary shall be the disciplining authority under this chapter.

(3) The department shall publish and disseminate information to educate the public about the responsibilities of counselors, the types of counselors, and the rights and responsibilities of clients established under this chapter. The secretary may assess an additional fee for each application and renewal to fund public education efforts under this section. [2008 c 135 § 6; 2001 c 251 § 21; 1991 c 3 § 21; 1987 c 512 § 5.]

Additional notes found at www.leg.wa.gov

18.19.060 Information disclosure to clients. Certified counselors and certified advisers shall provide clients at the commencement of any program of treatment with accurate disclosure information concerning their practice, in accordance with guidelines developed by the department, that will inform clients of the purposes of and resources available under this chapter, including the right of clients to refuse

treatment, the responsibility of clients for choosing the provider and treatment modality which best suits their needs, and the extent of confidentiality provided by this chapter, the department, another agency, or other jurisdiction. The disclosure statement must inform the client of the certified counselor's or certified adviser's consultation arrangement or supervisory agreement as defined in rules adopted by the secretary. The disclosure information provided by the certified counselor or certified adviser, the receipt of which shall be acknowledged in writing by the certified counselor or certified adviser and the client, shall include any relevant education and training, the therapeutic orientation of the practice, the proposed course of treatment where known, any financial requirements, referral resources, and such other information as the department may require by rule. The disclosure information shall also include a statement that the certification of an individual under this chapter does not include a recognition of any practice standards, nor necessarily imply the effectiveness of any treatment. Certified counselors and certified advisers must also disclose that they are not credentialed to diagnose mental disorders or to conduct psychotherapy as defined by the secretary by rule. The client is not liable for any fees or charges for services rendered prior to receipt of the disclosure statement. [2008 c 135 § 7; 2001 c 251 § 22; 1987 c 512 § 6.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

Additional notes found at www.leg.wa.gov

18.19.080 Official records. The secretary shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for registration under this chapter, with the result of each application. [2001 c 251 § 23; 1991 c 3 § 23; 1987 c 512 § 8.]

Additional notes found at www.leg.wa.gov

18.19.090 Application for credentials—Contents—Form—Requirements. (1) Application for agency affiliated counselor, certified counselor, certified adviser, or hypnotherapist must be made on forms approved by the secretary. The secretary may require information necessary to determine whether applicants meet the qualifications for the credential and whether there are any grounds for denial of the credential, or for issuance of a conditional credential, under this chapter or chapter 18.130 RCW. The application for agency affiliated counselor, certified counselor, or certified adviser must include a description of the applicant's orientation, discipline, theory, or technique. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250, which shall accompany the application.

(2) Applicants for agency affiliated counselor must provide satisfactory documentation that they are employed by an agency or have an offer of employment from an agency.

(3) At the time of application for initial certification, applicants for certified counselor prior to July 1, 2010, are required to:

(a) Have been registered for no less than five years at the time of application for an initial certification;

(b) Have held a valid, active registration that is in good standing and be in compliance with any disciplinary process

and orders at the time of application for an initial certification;

(c) Show evidence of having completed coursework in risk assessment, ethics, appropriate screening and referral, and Washington state law and other subjects identified by the secretary;

(d) Pass an examination in risk assessment, ethics, appropriate screening and referral, and Washington state law, and other subjects as determined by the secretary; and

(e) Have a written consultation agreement with a credential holder who meets the qualifications established by the secretary.

(4) Unless eligible for certification under subsection (3) of this section, applicants for certified counselor or certified adviser are required to:

(a)(i) Have a bachelor's degree in a counseling-related field, if applying for certified counselor; or

(ii) Have an associate degree in a counseling-related field and a supervised internship, if applying for certified adviser;

(b) Pass an examination in risk assessment, ethics, appropriate screening and referral, and Washington state law, and other subjects as determined by the secretary; and

(c) Have a written supervisory agreement with a supervisor who meets the qualifications established by the secretary.

(5) Each applicant shall include payment of the fee determined by the secretary as provided in RCW 43.70.250. [2008 c 135 § 8; 1991 c 3 § 24; 1987 c 512 § 9.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.19.100 Renewal of credentials. The secretary shall establish administrative procedures, administrative requirements, continuing education, and fees for renewal of credentials as provided in RCW 43.70.250 and 43.70.280. When establishing continuing education requirements for agency affiliated counselors, the secretary shall consult with the appropriate state agency director responsible for licensing, certifying, or operating the relevant agency practice setting. [2008 c 135 § 10; 1996 c 191 § 5; 1991 c 3 § 25; 1987 c 512 § 10.]

18.19.180 Confidential communications. An individual registered under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.19.060 nor any information acquired from persons consulting the individual in a professional capacity when that information was necessary to enable the individual to render professional services to those persons except:

(1) With the written consent of that person or, in the case of death or disability, the person's personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition;

(2) That a person registered under this chapter is not required to treat as confidential a communication that reveals the contemplation or commission of a crime or harmful act;

(3) If the person is a minor, and the information acquired by the person registered under this chapter indicates that the minor was the victim or subject of a crime, the person registered may testify fully upon any examination, trial, or other

proceeding in which the commission of the crime is the subject of the inquiry;

(4) If the person waives the privilege by bringing charges against the person registered under this chapter;

(5) In response to a subpoena from a court of law or the secretary. The secretary may subpoena only records related to a complaint or report under chapter 18.130 RCW; or

(6) As required under chapter 26.44 RCW. [2001 c 251 § 24; 1991 c 3 § 33; 1987 c 512 § 11.]

Additional notes found at www.leg.wa.gov

18.19.190 Other professions not affected. This chapter shall not be construed as permitting the administration or prescription of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 RCW, or in any way infringing upon the practice of psychology as defined in chapter 18.83 RCW, or restricting the scope of the practice of counseling for those registered under this chapter. [2001 c 251 § 25; 1987 c 512 § 18.]

Additional notes found at www.leg.wa.gov

18.19.200 Scope of practice—Certified counselors and certified advisers. The scope of practice of certified counselors and certified advisers consists exclusively of the following:

(1) Appropriate screening of the client's level of functional impairment using the global assessment of functioning as described in the fourth edition of the diagnostic and statistical manual of mental disorders, published in 1994. Recognition of a mental or physical disorder or a global assessment of functioning score of sixty or less requires that the certified counselor or certified adviser refer the client to a physician, osteopathic physician, psychiatric registered nurse practitioner, or licensed mental health practitioner, as defined by the secretary, for diagnosis and treatment;

(2) Certified counselors and certified advisers may counsel and guide a client in adjusting to life situations, developing new skills, and making desired changes, in accordance with the theories and techniques of a specific counseling method and established practice standards, if the client has a global assessment of functioning score greater than sixty;

(3) Certified counselors may counsel and guide a client in adjusting to life situations, developing new skills, and making desired changes if the client has a global assessment of functioning score of sixty or less if:

(a) The client has been referred to the certified counselor by a physician, osteopathic physician, psychiatric registered nurse practitioner, or licensed mental health practitioner, as defined by the secretary, and care is provided as part of a plan of treatment developed by the referring practitioner who is actively treating the client. The certified counselor must adhere to any conditions related to the certified counselor's role as specified in the plan of care; or

(b) The certified counselor referred the client to seek diagnosis and treatment from a physician, osteopathic physician, psychiatric registered nurse practitioner, or licensed mental health practitioner, as defined by the secretary, and the client refused, in writing, to seek treatment from the other provider. The certified counselor may provide services to the client consistent with a treatment plan developed by the certified counselor and the consultant or supervisor with whom

the certified counselor has a written consultation or supervisory agreement. A certified counselor shall not be a sole treatment provider for a client with a global assessment of functioning score of less than fifty. [2008 c 135 § 4.]

18.19.210 Agency affiliated counselors—Employment status—Duty to notify department. (1)(a) An applicant for registration as an agency affiliated counselor who applies to the department within seven days of employment by an agency may work as an agency affiliated counselor for up to sixty days while the application is processed. The applicant must stop working on the sixtieth day of employment if the registration has not been granted for any reason.

(b) The applicant may not provide unsupervised counseling prior to completion of a criminal background check performed by either the employer or the secretary. For purposes of this subsection, "unsupervised" means the supervisor is not physically present at the location where the counseling occurs.

(2) Agency affiliated counselors shall notify the department if they are either no longer employed by the agency identified on their application or are now employed with another agency, or both. Agency affiliated counselors may not engage in the practice of counseling unless they are currently affiliated with an agency. [2013 c 338 § 6; 2008 c 135 § 9.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.19.220 Certified counselors and hypnotherapist advisory committee. The Washington state-certified counselors and hypnotherapist advisory committee is established.

(1) The committee is comprised of seven members. Two committee members must be certified counselors or certified advisers. Two committee members must be hypnotherapists. Three committee members must be consumers and represent the public at large and may not hold any mental health care provider license, certification, or registration.

(2) Two committee members must be appointed for a term of one year, two committee members must be appointed for a term of two years, and three committee members must be appointed for a term of three years. Subsequent committee members must be appointed for terms of three years. A person may not serve as a committee member for more than two consecutive terms.

(3)(a) Each committee member must be a resident of the state of Washington.

(b) A committee member may not hold an office in a professional association for their profession.

(c) Advisory committee members may not be employed by the state of Washington.

(d) Each professional committee member must have been actively engaged in their profession for five years immediately preceding appointment.

(e) The consumer committee members must represent the general public and be unaffiliated directly or indirectly with the professions credentialed under this chapter.

(4) The secretary shall appoint the committee members.

(5) Committee members are immune from suit in an action, civil or criminal, based on the department's disci-

plinary proceedings or other official acts performed in good faith.

(6) Committee members must be compensated in accordance with RCW 43.03.240, including travel expenses in carrying out his or her authorized duties in accordance with RCW 43.03.050 and 43.03.060.

(7) The committee shall elect a chair and vice chair. [2008 c 135 § 19.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.19.900 Short title. This chapter shall be known as the omnibus credentialing act for counselors. [1987 c 512 § 20.]

18.19.902 Registered counselor credential abolished. To practice counseling, all registered counselors must obtain another health profession credential by July 1, 2010. The registered counselor credential is abolished July 1, 2010. [2008 c 135 § 20.]

Chapter 18.20 RCW

ASSISTED LIVING FACILITIES

(Formerly: Boarding homes)

Sections

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18.20.010 Purpose. The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of assisted living facilities, which, in the light of advancing knowledge, will promote safe and adequate care of the individuals therein. It is further the intent of the legislature that assisted living facilities be available to meet the needs of those for whom they care by recognizing the capabilities of individuals to direct their self-medication or to use supervised self-medication techniques when ordered and approved by a physician licensed under chapter 18.57 or 18.71 RCW or a podiatric physician and surgeon licensed under chapter 18.22 RCW.

The legislature finds that many residents of community-based long-term care facilities are vulnerable and their health and well-being are dependent on their caregivers. The quality, skills, and knowledge of their caregivers are often the key to good care. The legislature finds that the need for well-trained caregivers is growing as the state's population ages and residents' needs increase. The legislature intends that current training standards be enhanced. [2012 c 10 § 1. Prior: 2000 c 171 § 3; 2000 c 121 § 1; 1985 c 297 § 1; 1957 c 253 § 1.]

Application—2012 c 10: "All department of social and health services rules that apply to licensed boarding homes on June 7, 2012, continue in effect and apply to licensed assisted living facilities, as defined in RCW 18.20.020." [2012 c 10 § 75.]

18.20.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult day services" means care and services provided to a nonresident individual by the assisted living facility on the assisted living facility premises, for a period of time not to exceed ten continuous hours, and does not involve an overnight stay.

(2) "Assisted living facility" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section

thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(3) "Basic services" means housekeeping services, meals, nutritious snacks, laundry, and activities.

(4) "Department" means the state department of social and health services.

(5) "Domiciliary care" means: Assistance with activities of daily living provided by the assisted living facility either directly or indirectly; or health support services, if provided directly or indirectly by the assisted living facility; or intermittent nursing services, if provided directly or indirectly by the assisted living facility.

(6) "General responsibility for the safety and well-being of the resident" means the provision of the following: Prescribed general low sodium diets; prescribed general diabetic diets; prescribed mechanical soft foods; emergency assistance; monitoring of the resident; arranging health care appointments with outside health care providers and reminding residents of such appointments as necessary; coordinating health care services with outside health care providers consistent with RCW 18.20.380; assisting the resident to obtain and maintain glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices; observation of the resident for changes in overall functioning; blood pressure checks as scheduled; responding appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning; or medication assistance as permitted under RCW 69.41.085 and as defined in RCW 69.41.010.

(7) "Legal representative" means a person or persons identified in RCW 7.70.065 who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative shall not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident.

(8) "Nonresident individual" means a person who resides in independent senior housing, independent living units in continuing care retirement communities, or in other similar living environments or in an unlicensed room located within an assisted living facility. Nothing in this chapter prohibits nonresidents from receiving one or more of the services listed in RCW 18.20.030(5) or requires licensure as an assisted living facility when one or more of the services listed in RCW 18.20.030(5) are provided to nonresidents. A nonresident individual may not receive domiciliary care, as defined in this chapter, directly or indirectly by the assisted living facility and may not receive the items and services listed in subsection (6) of this section, except during the time the person is receiving adult day services as defined in this section.

(9) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(10) "Resident" means an individual who is not related by blood or marriage to the operator of the assisted living facility, and by reason of age or disability, chooses to reside

in the assisted living facility and receives basic services and one or more of the services listed under general responsibility for the safety and well-being of the resident and may receive domiciliary care or respite care provided directly or indirectly by the assisted living facility and shall be permitted to receive hospice care through an outside service provider when arranged by the resident or the resident's legal representative under RCW 18.20.380.

(11) "Resident applicant" means an individual who is seeking admission to a licensed assisted living facility and who has completed and signed an application for admission, or such application for admission has been completed and signed in their behalf by their legal representative if any, and if not, then the designated representative if any.

(12) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the assisted living facility and to receive information from the assisted living facility, if there is no legal representative. The resident's competence shall be determined using the criteria in RCW 11.88.010(1)(e). The resident's representative may not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

(13) "Secretary" means the secretary of social and health services. [2012 c 10 § 2. Prior: 2011 c 366 § 2; 2006 c 242 § 1; 2004 c 142 § 1; 2003 c 231 § 2; 2000 c 47 § 1; 1998 c 272 § 14; 1991 c 3 § 34; 1989 c 329 § 1; 1985 c 213 § 4; 1979 c 141 § 25; 1957 c 253 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Application—2012 c 10: See note following RCW 18.20.010.

Conflict with federal requirements—2011 c 366: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2011 c 366 § 9.]

Findings—Purpose—2011 c 366: "The legislature has a long history of supporting seniors where they live whether it is at home or in a licensed care facility. It is widely recognized that the consumer of senior services and long-term care of tomorrow will have different demands and expectations for the type and manner of supportive and health care services that they receive. Cost efficiencies must and can be achieved within the health care system. Through the use of care coaches, technology-supported health and wellness programs, and by allowing greater flexibility for the specialization and use of nursing facility beds, costly hospitalizations and rehospitalizations can be reduced and the entry to licensed care settings can be delayed." [2011 c 366 § 1.]

Severability—2006 c 242: "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." [2006 c 242 § 4.]

Findings—2003 c 231: "The legislature finds and declares that, in keeping with the traditional concept of the dignity of the individual in our democratic society, the older citizens of this state and persons with disabilities are entitled to live in comfort, honor, and dignity in a manner that maximizes freedom and independence.

The legislature further finds that licensed boarding homes are an essential component of home and community-based services, and that the non-institutional nature of this care setting must be preserved and protected by ensuring a regulatory structure that focuses on the actual care and services

provided to residents, consumer satisfaction, and continuous quality improvement.

The legislature also finds that residents and consumers of services in licensed boarding homes should be encouraged to exercise maximum independence, and the legislature declares that the state's rules for licensed boarding homes must also be designed to encourage individual dignity, autonomy, and choice.

The legislature further finds that consumers should be afforded access to affordable long-term care services in licensed boarding homes, and believes that care delivery must remain responsive to consumer preferences. Residents and consumers in licensed boarding homes should be afforded the right to self-direct care, and this right should be reflected in the rules governing licensed boarding homes." [2003 c 231 § 1.]

Findings—Severability—Effective date—1998 c 272: See notes following RCW 18.20.230.

Additional notes found at www.leg.wa.gov

18.20.030 License required. (1) After January 1, 1958, no person shall operate or maintain an assisted living facility as defined in this chapter within this state without a license under this chapter.

(2) An assisted living facility license is not required for the housing, or services, that are customarily provided under landlord tenant agreements governed by the residential landlord-tenant act, chapter 59.18 RCW, or when housing nonresident individuals who chose to participate in programs or services under subsection (5) of this section, when offered by the assisted living facility licensee or the licensee's contractor. This subsection does not prohibit the licensee from furnishing written information concerning available community resources to the nonresident individual or the individual's family members or legal representatives. The licensee may not require the use of any particular service provider.

(3) Residents receiving domiciliary care, directly or indirectly by the assisted living facility, are not considered nonresident individuals for the purposes of this section.

(4) An assisted living facility license is required when any person other than an outside service provider, under RCW 18.20.380, or family member:

(a) Assumes general responsibility for the safety and well-being of a resident;

(b) Provides assistance with activities of daily living, either directly or indirectly;

(c) Provides health support services, either directly or indirectly; or

(d) Provides intermittent nursing services, either directly or indirectly.

(5) An assisted living facility license is not required for one or more of the following services that may, upon the request of the nonresident, be provided to a nonresident individual: (a) Emergency assistance provided on an intermittent or nonroutine basis; (b) systems, including technology-based monitoring devices, employed by independent senior housing, or independent living units in continuing care retirement communities, to respond to the potential need for emergency services; (c) scheduled and nonscheduled blood pressure checks; (d) nursing assessment services to determine whether referral to an outside health care provider is recommended; (e) making and reminding the nonresident of health care appointments; (f) preadmission assessment for the purposes of transitioning to a licensed care setting; (g) medication assistance which may include reminding or coaching the nonresident, opening the nonresident's medication container,

using an enabler, and handing prefilled insulin syringes to the nonresident; (h) falls risk assessment; (i) nutrition management and education services; (j) dental services; (k) wellness programs; (l) prefiling insulin syringes when performed by a nurse licensed under chapter 18.79 RCW; or (m) services customarily provided under landlord tenant agreements governed by the residential landlord-tenant act, chapter 59.18 RCW. [2012 c 10 § 3; 2011 c 366 § 3; 2004 c 142 § 17; 2003 c 231 § 3; 1957 c 253 § 3.]

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Purpose—Conflict with federal requirements—2011 c 366: See notes following RCW 18.20.020.

Findings—Effective date—2003 c 231: See notes following RCW 18.20.020.

Additional notes found at www.leg.wa.gov

18.20.040 Application for license. An application for a license shall be made to the department upon forms provided by the department and shall contain such information as the department reasonably requires, which shall include affirmative evidence of ability to comply with such rules as are lawfully adopted by the department. [2000 c 47 § 2; 1957 c 253 § 4.]

Additional notes found at www.leg.wa.gov

18.20.050 Licenses—Issuance—Renewal—Provisional licenses—Fees—Display—Surrender, relinquishment—Change in licensee—Refusal of renewal, when—Copy of decision. (1)(a) Upon receipt of an application for license, if the applicant and the facilities of the assisted living facility meet the requirements established under this chapter, the department may issue a license. If there is a failure to comply with the provisions of this chapter or the rules adopted under this chapter, the department may in its discretion issue a provisional license to an applicant for a license or for the renewal of a license. A provisional license permits the operation of the assisted living facility for a period to be determined by the department, but not to exceed twelve months and is not subject to renewal. The department may also place conditions on the license under RCW 18.20.190.

(b) At the time of the application for or renewal of a license or provisional license, the licensee shall pay a license fee. Beginning July 1, 2011, and thereafter, the per bed license fee must be established in the omnibus appropriations act and any amendment or additions made to that act. The license fees established in the omnibus appropriations act and any amendment or additions made to that act may not exceed the department's annual licensing and oversight activity costs and must include the department's cost of paying providers for the amount of the license fee attributed to medicaid clients.

(c) A license issued under this chapter may not exceed twelve months in duration and expires on a date set by the department. An assisted living facility license must be issued only to the person that applied for the license. All applications for renewal of a license shall be made not later than thirty days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

(2) A licensee who receives notification of the department's initiation of a denial, suspension, nonrenewal, or revocation of an assisted living facility license may, in lieu of appealing the department's action, surrender or relinquish the license. The department shall not issue a new license to or contract with the licensee, for the purposes of providing care to vulnerable adults or children, for a period of twenty years following the surrendering or relinquishment of the former license. The licensing record shall indicate that the licensee relinquished or surrendered the license, without admitting the violations, after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of a license.

(3) The department shall establish, by rule, the circumstances requiring a change in licensee, which include, but are not limited to, a change in ownership or control of the assisted living facility or licensee, a change in the licensee's form of legal organization, such as from sole proprietorship to partnership or corporation, and a dissolution or merger of the licensed entity with another legal organization. The new licensee is subject to the provisions of this chapter, the rules adopted under this chapter, and other applicable law. In order to ensure that the safety of residents is not compromised by a change in licensee, the new licensee is responsible for correction of all violations that may exist at the time of the new license.

(4) The department may deny, suspend, modify, revoke, or refuse to renew a license when the department finds that the applicant or licensee or any partner, officer, director, managerial employee, or majority owner of the applicant or licensee:

(a) Operated an assisted living facility without a license or under a revoked or suspended license; or

(b) Knowingly or with reason to know made a false statement of a material fact (i) in an application for license or any data attached to the application, or (ii) in any matter under investigation by the department; or

(c) Refused to allow representatives or agents of the department to inspect (i) the books, records, and files required to be maintained, or (ii) any portion of the premises of the assisted living facility; or

(d) Willfully prevented, interfered with, or attempted to impede in any way (i) the work of any authorized representative of the department, or (ii) the lawful enforcement of any provision of this chapter; or

(e) Has a history of significant noncompliance with federal or state regulations in providing care or services to vulnerable adults or children. In deciding whether to deny, suspend, modify, revoke, or refuse to renew a license under this section, the factors the department considers shall include the gravity and frequency of the noncompliance.

(5) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial. [2012 c 10 § 4; 2011 1st sp.s. c 3 § 402; 2004 c 140 § 1; 2003 c 231 § 4; 2001 c 193 § 10; 2000 c 47 § 3; 1987 c 75 § 3; 1982 c 201 § 4; 1971 ex.s. c 247 § 1; 1957 c 253 § 5.]

Application—2012 c 10: See note following RCW 18.20.010.

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Effective date—2011 1st sp.s. c 3 §§ 401-403: See note following RCW 18.51.050.

Finding—Intent—2011 1st sp.s. c 3: See note following RCW 70.128.005.

Findings—Effective date—2003 c 231: See notes following RCW 18.20.020.

Additional notes found at www.leg.wa.gov

18.20.090 Rules, regulations, and standards. The department shall adopt, amend, and promulgate such rules, regulations, and standards with respect to all assisted living facilities and operators thereof to be licensed hereunder as may be designed to further the accomplishment of the purposes of this chapter in promoting safe and adequate care of individuals in assisted living facilities and the sanitary, hygienic and safe conditions of the assisted living facility in the interest of public health, safety, and welfare. [2012 c 10 § 5; 1985 c 213 § 6; 1971 ex.s. c 189 § 3; 1957 c 253 § 9.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.110 Inspection of assisted living facilities—Approval of changes or new facilities. The department shall make or cause to be made, at least every eighteen months with an annual average of fifteen months, an inspection and investigation of all assisted living facilities. However, the department may delay an inspection to twenty-four months if the assisted living facility has had three consecutive inspections with no written notice of violations and has received no written notice of violations resulting from complaint investigation during that same time period. The department may at anytime make an unannounced inspection of a licensed facility to assure that the licensee is in compliance with this chapter and the rules adopted under this chapter. Every inspection shall focus primarily on actual or potential resident outcomes, and may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary, and the stores and methods of supply; however, the department shall not have access to financial records or to other records or reports described in RCW 18.20.390. Financial records of the assisted living facility may be examined when the department has reasonable cause to believe that a financial obligation related to resident care or services will not be met, such as a complaint that staff wages or utility costs have not been paid, or when necessary for the department to investigate alleged financial exploitation of a resident. Following such an inspection or inspections, written notice of any violation of this law or the rules adopted hereunder shall be given to the applicant or licensee and the department. The department may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agencies responsible for plan reviews for preliminary inspection and approval or recommendations with respect to compliance with the rules and standards herein authorized. [2012 c 10 § 6; 2004 c 144 § 3; 2003 c 280 § 1; 2000 c 47 § 4; 1985 c 213 § 7; 1957 c 253 § 11.]

Application—2012 c 10: See note following RCW 18.20.010.

[Title 18 RCW—page 43]

Finding—Effective date—2004 c 144: See notes following RCW 18.20.390.

Additional notes found at www.leg.wa.gov

18.20.115 Quality improvement consultation program—Principles. The department shall, within available funding for this purpose, develop and make available to assisted living facilities a quality improvement consultation program using the following principles:

(1) The system shall be resident-centered and promote privacy, independence, dignity, choice, and a home or home-like environment for residents consistent with chapter 70.129 RCW.

(2) The goal of the system is continuous quality improvement with the focus on resident satisfaction and outcomes for residents. The quality improvement consultation program shall be offered to assisted living facilities on a voluntary basis. Based on requests for the services of the quality improvement consultation program, the department may establish a process for prioritizing service availability.

(3) Assisted living facilities should be supported in their efforts to improve quality and address problems, as identified by the licensee, initially through training, consultation, and technical assistance. At a minimum, the department may, within available funding, at the request of the assisted living facility, conduct on-site visits and telephone consultations.

(4) To facilitate collaboration and trust between the assisted living facilities and the department's quality improvement consultation program staff, the consultation program staff shall not simultaneously serve as department licensers, complaint investigators, or participate in any enforcement-related decisions, within the region in which they perform consultation activities; except such staff may investigate on an emergency basis, complaints anywhere in the state when the complaint indicates high risk to resident health or safety. Any records or information gained as a result of their work under the quality improvement consultation program shall not be disclosed to or shared with nonmanagerial department licensing or complaint investigation staff, unless necessary to carry out duties described under chapter 74.34 RCW. The emphasis should be on problem prevention. Nothing in this section shall limit or interfere with the consultant's mandated reporting duties under chapter 74.34 RCW.

(5) The department shall promote the development of a training system that is practical and relevant to the needs of residents and staff. To improve access to training, especially for rural communities, the training system may include, but is not limited to, the use of satellite technology distance learning that is coordinated through community colleges or other appropriate organizations. [2012 c 10 § 7; 2001 c 85 § 1; 1997 c 392 § 213.]

Application—2012 c 10: See note following RCW 18.20.010.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Additional notes found at www.leg.wa.gov

18.20.125 Inspections—Enforcement remedies—Screening—Limitations on unsupervised access to vulnerable adults. (1) Inspections must be outcome based and responsive to resident complaints and based on a clear set of

health, quality of care, and safety standards that are easily understandable and have been made available to facilities, residents, and other interested parties. This includes that when conducting licensing inspections, the department shall interview an appropriate percentage of residents, family members, and advocates in addition to interviewing appropriate staff.

(2) Prompt and specific enforcement remedies shall also be implemented without delay, consistent with RCW 18.20.190, for facilities found to have delivered care or failed to deliver care resulting in problems that are serious, recurring, or uncorrected, or that create a hazard that is causing or likely to cause death or serious harm to one or more residents. These enforcement remedies may also include, when appropriate, reasonable conditions on a license. In the selection of remedies, the safety, health, and well-being of residents shall be of paramount importance.

(3)(a) To the extent funding is available, the licensee, administrator, and their staff should be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable adults. Employees may be provisionally hired pending the results of the background check if they have been given three positive references.

(b) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to background checks under RCW 74.39A.056.

(4) No licensee, administrator, or staff, or prospective licensee, administrator, or staff, with a stipulated finding of fact, conclusion of law, and agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into the state registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW shall be employed in the care of and have unsupervised access to vulnerable adults. [2012 c 164 § 504; 2011 1st sp.s. c 31 § 15; 2009 c 580 § 3; 2004 c 140 § 4; 2003 c 231 § 5; 2001 c 85 § 2.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Findings—Effective date—2003 c 231: See notes following RCW 18.20.020.

Additional notes found at www.leg.wa.gov

18.20.130 Fire protection—Duties of chief of the Washington state patrol. Standards for fire protection and the enforcement thereof, with respect to all assisted living facilities to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt such recognized standards as may be applicable to assisted living facilities for the protection of life against the cause and spread of fire and fire hazards. The department, upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the assisted living facility to be licensed, and if it is found that the premises do not comply with the

required safety standards and fire rules as adopted by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the assisted living facility and the department as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire rules. The department, applicant, or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the assisted living facility to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department a written report approving same with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made inspections of such facilities at least annually.

In cities which have in force a comprehensive building code, the provisions of which are determined by the chief of the Washington state patrol, through the director of fire protection, to be equal to the minimum standards of the code for assisted living facilities adopted by the chief of the Washington state patrol, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, and they shall jointly approve the premises before a full license can be issued. [2012 c 10 § 8; 2000 c 47 § 6; 1995 c 369 § 4; 1986 c 266 § 81; 1957 c 253 § 13.]

Application—2012 c 10: See note following RCW 18.20.010.

State fire protection: Chapter 43.44 RCW.

Additional notes found at www.leg.wa.gov

18.20.140 Operating without license—Penalty. Any person operating or maintaining any assisted living facility without a license under this chapter shall be guilty of a misdemeanor and each day of a continuing violation shall be considered a separate offense. [2012 c 10 § 9; 1957 c 253 § 14.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.150 Operating without license—Injunction. Notwithstanding the existence or use of any other remedy, the department, may, in the manner provided by law, upon the advice of the attorney general who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the operation or maintenance of an assisted living facility without a license under this chapter. [2012 c 10 § 10; 1957 c 253 § 15.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.160 Persons requiring medical or nursing care. No person operating an assisted living facility licensed under this chapter shall admit to or retain in the assisted living facility any aged person requiring nursing or medical care of a

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type provided by institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except that when registered nurses are available, and upon a doctor's order that a supervised medication service is needed, it may be provided. Supervised medication services, as defined by the department and consistent with chapters 69.41 and 18.79 RCW, may include an approved program of self-medication or self-directed medication. Such medication service shall be provided only to residents who otherwise meet all requirements for residency in an assisted living facility. No assisted living facility shall admit or retain a person who requires the frequent presence and frequent evaluation of a registered nurse, excluding persons who are receiving hospice care or persons who have a short-term illness that is expected to be resolved within fourteen days. [2012 c 10 § 11; 2004 c 142 § 12; 1985 c 297 § 2; 1975 1st ex.s. c 43 § 1; 1957 c 253 § 16.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.170 Facilities operated by religious organizations. Nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any assisted living facility conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination. [2012 c 10 § 12; 1957 c 253 § 17.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.180 Resident rights. RCW 70.129.005 through 70.129.030, 70.129.040, and 70.129.050 through 70.129.170 apply to this chapter and persons regulated under this chapter. [2011 1st sp.s. c 3 § 303; 1994 c 214 § 21.]

Finding—Intent—2011 1st sp.s. c 3: See note following RCW 70.128.005.

Additional notes found at www.leg.wa.gov

18.20.185 Complaints—Toll-free telephone number—Investigation and referral—Rules—Retaliation prohibited. (1) The department shall establish and maintain a toll-free telephone number for receiving complaints regarding a facility that the department licenses.

(2) All facilities that are licensed under this chapter shall post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number and the toll-free number and program description of the long-term care ombuds as provided by RCW 43.190.050.

(3) The department shall investigate complaints if the subject of the complaint is within its authority unless the department determines that: (a) The complaint is intended to willfully harass a licensee or employee of the licensee; or (b) there is no reasonable basis for investigation; or (c) corrective action has been taken as determined by the ombuds or the department.

(4) The department shall refer complaints to appropriate state agencies, law enforcement agencies, the attorney general, the long-term care ombuds, or other entities if the department lacks authority to investigate or if its investigation reveals that a follow-up referral to one or more of these entities is appropriate.

(5) The department shall adopt rules that include the following complaint investigation protocols:

(a) Upon receipt of a complaint, the department shall make a preliminary review of the complaint, assess the severity of the complaint, and assign an appropriate response time. Complaints involving imminent danger to the health, safety, or well-being of a resident must be responded to within two days. When appropriate, the department shall make an on-site investigation within a reasonable time after receipt of the complaint or otherwise ensure that complaints are responded to.

(b) The complainant must be: Promptly contacted by the department, unless anonymous or unavailable despite several attempts by the department, and informed of the right to discuss alleged violations with the inspector and to provide other information the complainant believes will assist the inspector; informed of the department's course of action; and informed of the right to receive a written copy of the investigation report.

(c) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the resident or residents allegedly harmed by the violations, and, in addition to facility staff, any available independent sources of relevant information, including if appropriate the family members of the resident.

(d) Substantiated complaints involving harm to a resident, if an applicable law or regulation has been violated, shall be subject to one or more of the actions provided in RCW 18.20.190. Whenever appropriate, the department shall also give consultation and technical assistance to the facility.

(e) After a department finding of a violation for which a stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

(f) Substantiated complaints of neglect, abuse, exploitation, or abandonment of residents, or suspected criminal violations, shall also be referred by the department to the appropriate law enforcement agencies, the attorney general, and appropriate professional disciplining authority.

(6) The department may provide the substance of the complaint to the licensee before the completion of the investigation by the department unless such disclosure would reveal the identity of a complainant, witness, or resident who chooses to remain anonymous. Neither the substance of the complaint provided to the licensee or contractor nor any copy

of the complaint or related report published, released, or made otherwise available shall disclose, or reasonably lead to the disclosure of, the name, title, or identity of any complainant, or other person mentioned in the complaint, except that the name of the provider and the name or names of any officer, employee, or agent of the department conducting the investigation shall be disclosed after the investigation has been closed and the complaint has been substantiated. The department may disclose the identity of the complainant if such disclosure is requested in writing by the complainant. Nothing in this subsection shall be construed to interfere with the obligation of the long-term care ombuds program to monitor the department's licensing, contract, and complaint investigation files for long-term care facilities.

(7) The resident has the right to be free of interference, coercion, discrimination, and reprisal from a facility in exercising his or her rights, including the right to voice grievances about treatment furnished or not furnished. A facility licensed under this chapter shall not discriminate or retaliate in any manner against a resident, employee, or any other person on the basis or for the reason that such resident or any other person made a complaint to the department, the attorney general, law enforcement agencies, or the long-term care ombuds, provided information, or otherwise cooperated with the investigation of such a complaint. Any attempt to discharge a resident against the resident's wishes, or any type of retaliatory treatment of a resident by whom or upon whose behalf a complaint substantiated by the department has been made to the department, the attorney general, law enforcement agencies, or the long-term care ombuds, within one year of the filing of the complaint, raises a rebuttable presumption that such action was in retaliation for the filing of the complaint. "Retaliatory treatment" means, but is not limited to, monitoring a resident's phone, mail, or visits; involuntary seclusion or isolation; transferring a resident to a different room unless requested or based upon legitimate management reasons; withholding or threatening to withhold food or treatment unless authorized by a terminally ill resident or his or her representative pursuant to law; or persistently delaying responses to a resident's request for service or assistance. A facility licensed under this chapter shall not willfully interfere with the performance of official duties by a long-term care ombuds. The department shall sanction and may impose a civil penalty of not more than three thousand dollars for a violation of this subsection. [2013 c 23 § 9; 2001 c 193 § 2; 1997 c 392 § 214.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

18.20.190 Department response to noncompliance or violations. (1) The department of social and health services is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that an assisted living facility provider has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under this chapter;

(b) Operated an assisted living facility without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for license

or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2) When authorized by subsection (1) of this section, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Impose reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(c) Impose civil penalties of not more than one hundred dollars per day per violation;

(d) Suspend, revoke, or refuse to renew a license;

(e) Suspend admissions to the assisted living facility by imposing stop placement; or

(f) Suspend admission of a specific category or categories of residents as related to the violation by imposing a limited stop placement.

(3) When the department orders stop placement or a limited stop placement, the facility shall not admit any new resident until the stop placement or limited stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement or limited stop placement. The department shall terminate the stop placement or limited stop placement when: (a) The violations necessitating the stop placement or limited stop placement have been corrected; and (b) the provider exhibits the capacity to maintain correction of the violations previously found deficient. However, if upon the revisit the department finds new violations that the department reasonably believes will result in a new stop placement or new limited stop placement, the previous stop placement or limited stop placement shall remain in effect until the new stop placement or new limited stop placement is imposed.

(4) After a department finding of a violation for which a stop placement or limited stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

(5) RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification. Chapter 34.05 RCW applies to department actions under this section, except that orders of the department imposing license suspension, stop placement, limited stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue pending any hearing.

(6) For the purposes of this section, "limited stop placement" means the ability to suspend admission of a specific category or categories of residents. [2012 c 10 § 13; 2003 c 231 § 6; 2001 c 193 § 4; 2000 c 47 § 7; 1998 c 272 § 15; 1995 1st sp.s. c 18 § 18.]

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Effective date—2003 c 231: See notes following RCW 18.20.020.

Findings—Severability—Effective date—1998 c 272: See notes following RCW 18.20.230.

Additional notes found at www.leg.wa.gov

18.20.195 Disputed violations, enforcement remedies—Informal dispute resolution process. (1) The licensee or its designee has the right to an informal dispute resolution process to dispute any violation found or enforcement remedy imposed by the department during a licensing inspection or complaint investigation. The purpose of the informal dispute resolution process is to provide an opportunity for an exchange of information that may lead to the modification, deletion, or removal of a violation, or parts of a violation, or enforcement remedy imposed by the department.

(2) The informal dispute resolution process provided by the department shall include, but is not necessarily limited to, an opportunity for review by a department employee who did not participate in, or oversee, the determination of the violation or enforcement remedy under dispute. The department shall develop, or further develop, an informal dispute resolution process consistent with this section.

(3) A request for an informal dispute resolution shall be made to the department within ten working days from the receipt of a written finding of a violation or enforcement remedy. The request shall identify the violation or violations and enforcement remedy or remedies being disputed. The department shall convene a meeting, when possible, within ten working days of receipt of the request for informal dispute resolution, unless by mutual agreement a later date is agreed upon.

(4) If the department determines that a violation or enforcement remedy should not be cited or imposed, the department shall delete the violation or immediately rescind or modify the enforcement remedy. If the department determines that a violation should have been cited under a different more appropriate regulation, the department shall revise the report, statement of deficiencies, or enforcement remedy accordingly. Upon request, the department shall issue a clean copy of the revised report, statement of deficiencies, or notice of enforcement action.

(5) The request for informal dispute resolution does not delay the effective date of any enforcement remedy imposed by the department, except that civil monetary fines are not payable until the exhaustion of any formal hearing and appeal rights provided under this chapter. The licensee shall submit to the department, within the time period prescribed by the department, a plan of correction to address any undisputed violations, and including any violations that still remain following the informal dispute resolution. [2005 c 506 § 1; 2004 c 140 § 5; 2001 c 193 § 7.]

18.20.200 License suspension—Nonpayment or default on educational loan or scholarship. The secretary shall suspend the license of any person who has been certified by a lending agency and reported to the secretary for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the secretary a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the secretary may impose. [1996 c 293 § 6.]

Additional notes found at www.leg.wa.gov

18.20.210 License suspension—Noncompliance with support order—Reissuance. The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 816.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.20.220 Residential care contracted services, conversion to—Requirements. For the purpose of encouraging a nursing home licensed under chapter 18.51 RCW to convert a portion or all of its licensed bed capacity to provide enhanced adult residential care contracted services under chapter 74.39A RCW, the department shall:

(1) Find the nursing home to be in satisfactory compliance with RCW 18.20.110 and 18.20.130, upon application for assisted living facility licensure and the production of copies of its most recent nursing home inspection reports demonstrating compliance with the safety standards and fire regulations, as required by RCW 18.51.140, and the state building code, as required by RCW 18.51.145, including any waivers that may have been granted. However, assisted living facility licensure requirements pertaining to resident to bathing fixture/toilet ratio, corridor call system, resident room door closures, and resident room windows may require modification, unless determined to be functionally equivalent, based upon a precensure survey inspection.

(2) Allow residents receiving enhanced adult residential care services to make arrangements for on-site health care services, consistent with Title 18 RCW regulating health care professions, to the extent that such services can be provided while maintaining the resident's right to privacy and safety in treatment, but this in no way means that such services may only be provided in a private room. The provision of on-site health care services must otherwise be consistent with RCW 18.20.160 and the rules adopted under RCW 18.20.160. [2012 c 10 § 14; 1997 c 164 § 1.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.230 Training standards review—Proposed enhancements. (1) The department of social and health services shall review, in coordination with the department of health, the nursing care quality assurance commission, adult family home providers, assisted living facility providers, in-home personal care providers, and long-term care consumers and advocates, training standards for administrators and resident caregiving staff. Any proposed enhancements shall be consistent with this section, shall take into account and not duplicate other training requirements applicable to assisted living facilities and staff, and shall be developed with the input of assisted living facility and resident representatives, health care professionals, and other vested interest groups. Training standards and the delivery system shall be relevant to the needs of residents served by the assisted living facility and recipients of long-term in-home personal care services and shall be sufficient to ensure that administrators and caregiving staff have the skills and knowledge necessary to provide high quality, appropriate care.

(2) The recommendations on training standards and the delivery system developed under subsection (1) of this section shall be based on a review and consideration of the following: Quality of care; availability of training; affordability, including the training costs incurred by the department of social and health services and private providers; portability of existing training requirements; competency testing; practical and clinical course work; methods of delivery of training; standards for management and caregiving staff training; and necessary enhancements for special needs populations and resident rights training. Residents with special needs include, but are not limited to, residents with a diagnosis of mental illness, dementia, or developmental disability. [2012 c 10 § 15; 1999 c 372 § 3; 1998 c 272 § 2.]

Application—2012 c 10: See note following RCW 18.20.010.

Findings—1998 c 272: "The legislature finds that many residents of long-term care facilities and recipients of in-home personal care services are exceptionally vulnerable and their health and well-being are heavily dependent on their caregivers. The legislature further finds that the quality of staff in long-term care facilities is often the key to good care. The need for well-trained staff and well-managed facilities is growing as the state's population ages and the acuity of the health care problems of residents increases. In order to better protect and care for residents, the legislature directs that the minimum training standards be reviewed for management and caregiving staff, including those serving residents with special needs, such as mental illness, dementia, or a developmental disability, that management and caregiving staff receive appropriate training, and that the training delivery system be improved." [1998 c 272 § 1.]

Additional notes found at www.leg.wa.gov

18.20.250 Federal funding programs, opportunities—Secretary's duty to comply. The secretary may adopt rules and policies as necessary to entitle the state to participate in federal funding programs and opportunities and to facilitate state and federal cooperation in programs under the department's jurisdiction. The secretary shall ensure that any internal reorganization carried out under the terms of this chapter complies with prerequisites for the receipt of federal funding for the various programs under the department's control. When interpreting any department-related section or provision of law susceptible to more than one interpretation, the secretary shall construe that section or provision in the manner most likely to comply with federal laws and rules entitling the state to receive federal funds for the various programs of the department. If any law or rule dealing with the department is ruled to be in conflict with federal prerequisites to the allocation of federal funding to the state, the department, or its agencies, the secretary shall declare that law or rule inoperative solely to the extent of the conflict. [1998 c 272 § 16.]

Findings—Severability—Effective date—1998 c 272: See notes following RCW 18.20.230.

18.20.270 Long-term caregiver training. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Caregiver" includes any person who provides residents with hands-on personal care on behalf of an assisted living facility, except volunteers who are directly supervised.

(b) "Direct supervision" means oversight by a person who has demonstrated competency in the core areas or has been fully exempted from the training requirements pursuant to this section, is on the premises, and is quickly and easily available to the caregiver.

(2) Training must have the following components: Orientation, basic training, specialty training as appropriate, and continuing education. All assisted living facility employees or volunteers who routinely interact with residents shall complete orientation. Assisted living facility administrators, or their designees, and caregivers shall complete orientation, basic training, specialty training as appropriate, and continuing education.

(3) Orientation consists of introductory information on residents' rights, communication skills, fire and life safety, and universal precautions. Orientation must be provided at the facility by appropriate assisted living facility staff to all assisted living facility employees before the employees have routine interaction with residents.

(4) Basic training consists of modules on the core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents. Basic training must be outcome-based, and the effectiveness of the basic training must be measured by demonstrated competency in the core areas through the use of a competency test. Basic training must be completed by caregivers within one hundred twenty days of the date on which they begin to provide hands-on care. Until competency in the core areas has been demonstrated, caregivers shall not provide hands-on personal care to residents without direct supervision. Assisted living facility administrators, or their designees, must complete

basic training and demonstrate competency within one hundred twenty days of employment.

(5) For assisted living facilities that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of administrators, or designees, and caregivers.

(a) Specialty training consists of modules on the core knowledge and skills that caregivers need to effectively and safely provide care to residents with special needs. Specialty training should be integrated into basic training wherever appropriate. Specialty training must be outcome-based, and the effectiveness of the specialty training measured by demonstrated competency in the core specialty areas through the use of a competency test.

(b) Specialty training must be completed by caregivers within one hundred twenty days of the date on which they begin to provide hands-on care to a resident having special needs. However, if specialty training is not integrated with basic training, the specialty training must be completed within ninety days of completion of basic training. Until competency in the core specialty areas has been demonstrated, caregivers shall not provide hands-on personal care to residents with special needs without direct supervision.

(c) Assisted living facility administrators, or their designees, must complete specialty training and demonstrate competency within one hundred twenty days from the date on which the administrator or his or her designee is hired, if the assisted living facility serves one or more residents with special needs.

(6) Continuing education consists of ongoing delivery of information to caregivers on various topics relevant to the care setting and care needs of residents. Competency testing is not required for continuing education. Continuing education is not required in the same calendar year in which basic or modified basic training is successfully completed. Continuing education is required in each calendar year thereafter. If specialty training is completed, the specialty training applies toward any continuing education requirement for up to two years following the completion of the specialty training.

(7) Persons who successfully challenge the competency test for basic training are fully exempt from the basic training requirements of this section. Persons who successfully challenge the specialty training competency test are fully exempt from the specialty training requirements of this section.

(8)(a) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW are exempt from any continuing education requirement established under this section.

(b) The department may adopt rules that would exempt licensed persons from all or part of the training requirements under this chapter, if they are (i) performing the tasks for which they are licensed and (ii) subject to chapter 18.130 RCW.

(9) In an effort to improve access to training and education and reduce costs, especially for rural communities, the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.

(10) The department shall develop criteria for the approval of orientation, basic training, and specialty training programs.

(11) Assisted living facilities that desire to deliver facility-based training with facility designated trainers, or assisted living facilities that desire to pool their resources to create shared training systems, must be encouraged by the department in their efforts. The department shall develop criteria for reviewing and approving trainers and training materials that are substantially similar to or better than the materials developed by the department. The department may approve a curriculum based upon attestation by an assisted living facility administrator that the assisted living facility's training curriculum addresses basic and specialty training competencies identified by the department, and shall review a curriculum to verify that it meets these requirements. The department may conduct the review as part of the next regularly scheduled yearly inspection and investigation required under RCW 18.20.110. The department shall rescind approval of any curriculum if it determines that the curriculum does not meet these requirements.

(12) The department shall adopt rules for the implementation of this section.

(13)(a) Except as provided in (b) of this subsection, the orientation, basic training, specialty training, and continuing education requirements of this section commence September 1, 2002, or one hundred twenty days from the date of employment, whichever is later, and shall be applied to (i) employees hired subsequent to September 1, 2002; and (ii) existing employees that on September 1, 2002, have not successfully completed the training requirements under RCW 74.39A.010 or 74.39A.020 and this section. Existing employees who have not successfully completed the training requirements under RCW 74.39A.010 or 74.39A.020 shall be subject to all applicable requirements of this section.

(b) Beginning January 7, 2012, long-term care workers, as defined in RCW 74.39A.009, employed by facilities licensed under this chapter are also subject to the training requirements under RCW 74.39A.074. [2013 c 259 § 4. Prior: 2012 c 164 § 702; 2012 c 10 § 16; 2002 c 233 § 1; 2000 c 121 § 2.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.280 General responsibility for each resident.

(1) The assisted living facility must assume general responsibility for each resident and must promote each resident's health, safety, and well-being consistent with the resident negotiated care plan.

(2) The assisted living facility is not required to supervise the activities of a person providing care or services to a resident when the resident, or legal representative, has independently arranged for or contracted with the person and the person is not directly or indirectly controlled or paid by the assisted living facility. However, the assisted living facility is required to coordinate services with such person to the extent allowed by the resident, or legal representative, and consistent with the resident's negotiated care plan. Further, the assisted living facility is required to observe the resident and

respond appropriately to any changes in the resident's overall functioning consistent with chapter 70.129 RCW, this chapter, and rules adopted under this chapter. [2012 c 10 § 17; 2003 c 231 § 7.]

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Effective date—2003 c 231: See notes following RCW 18.20.020.

18.20.290 Holding a medicaid eligible resident's room or unit—Payment rates. (1) When an assisted living facility contracts with the department to provide adult residential care services, enhanced adult residential care services, or assisted living services under chapter 74.39A RCW, the assisted living facility must hold a medicaid eligible resident's room or unit when short-term care is needed in a nursing home or hospital, the resident is likely to return to the assisted living facility, and payment is made under subsection (2) of this section.

(2) The medicaid resident's bed or unit shall be held for up to twenty days. The per day bed or unit hold compensation amount shall be seventy percent of the daily rate paid for the first seven days the bed or unit is held for the resident who needs short-term nursing home care or hospitalization. The rate for the eighth through the twentieth day a bed is held shall be established in rule, but shall be no lower than ten dollars per day the bed or unit is held.

(3) The assisted living facility may seek third-party payment to hold a bed or unit for twenty-one days or longer. The third-party payment shall not exceed the medicaid daily rate paid to the facility for the resident. If third-party payment is not available, the medicaid resident may return to the first available and appropriate bed or unit, if the resident continues to meet the admission criteria under this chapter. [2012 c 10 § 18; 2006 c 64 § 1; 2004 c 142 § 13; 2003 c 231 § 11.]

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Effective date—2003 c 231: See notes following RCW 18.20.020.

Additional notes found at www.leg.wa.gov

18.20.300 Domiciliary care services—Scope of services—Disclosure form. (1) An assisted living facility, licensed under this chapter, may provide domiciliary care services, as defined in this chapter, and shall disclose the scope of care and services that it chooses to provide.

(2) The assisted living facility licensee shall disclose to the residents, the residents' legal representative if any, and if not, the residents' representative if any, and to interested consumers upon request, the scope of care and services offered, using the form developed and provided by the department, in addition to any supplemental information that may be provided by the licensee. The form that the department develops shall be standardized, reasonable in length, and easy to read. The assisted living facility's disclosure statement shall indicate the scope of domiciliary care assistance provided and shall indicate that it permits the resident or the resident's legal representative to independently arrange for outside services under RCW 18.20.380.

(3)(a) If the assisted living facility licensee decreases the scope of services that it provides due to circumstances beyond the licensee's control, the licensee shall provide a minimum of thirty days' written notice to the residents, the

residents' legal representative if any, and if not, the residents' representative if any, before the effective date of the decrease in the scope of care or services provided.

(b) If the licensee voluntarily decreases the scope of services, and any such decrease in the scope of services provided will result in the discharge of one or more residents, then ninety days' written notice shall be provided prior to the effective date of the decrease. Notice shall be provided to the affected residents, the residents' legal representative if any, and if not, the residents' representative if any.

(c) If the assisted living facility licensee increases the scope of services that it chooses to provide, the licensee shall promptly provide written notice to the residents, the residents' legal representative if any, and if not, the residents' representative if any, and shall indicate the date on which the increase in the scope of care or services is effective.

(4) When the care needs of a resident exceed the disclosed scope of care or services that an assisted living facility licensee provides, the licensee may exceed the care or services disclosed consistent with RCW 70.129.030(3) and 70.129.110(3)(a). Providing care or services to a resident that exceed the care and services disclosed may or may not mean that the provider is capable of or required to provide the same care or services to other residents.

(5) Even though the assisted living facility licensee may disclose that it can provide certain care or services to resident applicants or to their legal representative if any, and if not, to the resident applicants' representative if any, the licensee may deny admission to a resident applicant when the licensee determines that the needs of the resident applicant cannot be met, as long as the provider operates in compliance with state and federal law, including RCW 70.129.030(3).

(6) The disclosure form is intended to assist consumers in selecting assisted living facility services and, therefore, shall not be construed as an implied or express contract between the assisted living facility licensee and the resident. [2012 c 10 § 19; 2004 c 142 § 2.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.305 Disclosure to nonresidents. (1) An assisted living facility must provide each nonresident a disclosure statement upon admission and at the time that additional services are requested by a nonresident.

(2) The disclosure statement shall notify the nonresident that:

(a) The resident rights of chapter 70.129 RCW do not apply to nonresidents;

(b) Licensing requirements for *boarding homes under this chapter do not apply to nonresident units; and

(c) The jurisdiction of the long-term care ombuds does not apply to nonresidents and nonresident units. [2013 c 23 § 10; 2011 c 366 § 4.]

***Reviser's note:** The term "boarding home" was changed to "assisted living facility" by 2012 c 10 § 2.

Findings—Purpose—Conflict with federal requirements—2011 c 366: See notes following RCW 18.20.020.

18.20.310 Assistance with activities of daily living.

(1) Assisted living facilities are not required to provide assistance with one or more activities of daily living.

(2) If an assisted living facility licensee chooses to provide assistance with activities of daily living, the licensee shall provide at least the minimal level of assistance for all activities of daily living consistent with subsection (3) of this section and consistent with the reasonable accommodation requirements in state or federal laws. Activities of daily living are limited to and include the following:

- (a) Bathing;
- (b) Dressing;
- (c) Eating;
- (d) Personal hygiene;
- (e) Transferring;
- (f) Toileting; and
- (g) Ambulation and mobility.

(3) The department shall, in rule, define the minimum level of assistance that will be provided for all activities of daily living, however, such rules shall not require more than occasional stand-by assistance or more than occasional physical assistance.

(4) The licensee shall clarify, through the disclosure form, the assistance with activities of daily living that may be provided, and any limitations or conditions that may apply. The licensee shall also clarify through the disclosure form any additional services that may be provided.

(5) In providing assistance with activities of daily living, the assisted living facility shall observe the resident for changes in overall functioning and respond appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning. [2012 c 10 § 20; 2004 c 142 § 3.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.320 Health support services. (1) The assisted living facility licensee may choose to provide any of the following health support services, however, the facility may or may not need to provide additional health support services to comply with the reasonable accommodation requirements in federal or state law:

- (a) Blood glucose testing;
- (b) Puree diets;
- (c) Calorie controlled diabetic diets;
- (d) Dementia care;
- (e) Mental health care; and
- (f) Developmental disabilities care.

(2) The licensee shall clarify on the disclosure form any limitations, additional services, or conditions that may apply.

(3) In providing health support services, the assisted living facility shall observe the resident for changes in overall functioning and respond appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning. [2012 c 10 § 21; 2004 c 142 § 4.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.330 Intermittent nursing services. (1) Assisted living facilities are not required to provide intermittent nursing services. The assisted living facility licensee may choose to provide any of the following intermittent nursing services through appropriately licensed and credentialed staff, however, the facility may or may not need to provide additional

intermittent nursing services to comply with the reasonable accommodation requirements in federal or state law:

- (a) Medication administration;
- (b) Administration of health care treatments;
- (c) Diabetic management;
- (d) Nonroutine ostomy care;
- (e) Tube feeding; and
- (f) Nurse delegation consistent with chapter 18.79 RCW.

(2) The licensee shall clarify on the disclosure form any limitations, additional services, or conditions that may apply under this section.

(3) In providing intermittent nursing services, the assisted living facility shall observe the resident for changes in overall functioning and respond appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning.

(4) The assisted living facility may provide intermittent nursing services to the extent permitted by RCW 18.20.160. [2012 c 10 § 22; 2004 c 142 § 5.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.340 Resident's family member administers medications or treatment—Written primary or alternate plan—Licensee's duty of care/negligence. (1) An assisted living facility licensee may permit a resident's family member to administer medications or treatments or to provide medication or treatment assistance to the resident. The licensee shall disclose to the department, residents, the residents' legal representative if any, and if not, the residents' representative if any, and to interested consumers upon request, information describing whether the licensee permits such family administration or assistance and, if so, the extent of limitations or conditions thereof.

(2) If an assisted living facility licensee permits a resident's family member to administer medications or treatments or to provide medication or treatment assistance, the licensee shall request that the family member submit to the licensee a written medication or treatment plan. At a minimum, the written medication or treatment plan shall identify:

(a) By name, the family member who will administer the medication or treatment or provide assistance therewith;

(b) The medication or treatment administration or assistance that the family member will provide consistent with subsection (1) of this section. This will be referred to as the primary plan;

(c) An alternate plan that will meet the resident's medication or treatment needs if the family member is unable to fulfill his or her duties as specified in the primary plan; and

(d) An emergency contact person and telephone number if the assisted living facility licensee observes changes in the resident's overall functioning or condition that may relate to the medication or treatment plan.

(3) The assisted living facility licensee may require that the primary or alternate medication or treatment plan include other information in addition to that specified in subsection (2) of this section.

(4) The medication or treatment plan shall be signed and dated by:

- (a) The resident, if able;

(b) The resident's legal representative, if any, and, if not, the resident's representative, if any;

(c) The resident's family member; and

(d) The assisted living facility licensee.

(5) The assisted living facility may through policy or procedure require the resident's family member to immediately notify the assisted living facility licensee of any change in the primary or alternate medication or treatment plan.

(6) When an assisted living facility licensee permits residents' family members to assist with or administer medications or treatments, the licensee's duty of care, and any negligence that may be attributed thereto, shall be limited to: Observation of the resident for changes in overall functioning consistent with RCW 18.20.280; notification to the person or persons identified in RCW 70.129.030 when there are observed changes in the resident's overall functioning or condition, or when the assisted living facility is aware that both the primary and alternate plan are not implemented; and appropriately responding to obtain needed assistance when there are observable or reported changes in the resident's physical or mental functioning. [2012 c 10 § 23; 2004 c 142 § 6.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.350 Preadmission assessment—Initial resident service plan—Respite care. (1) The assisted living facility licensee shall conduct a preadmission assessment for each resident applicant. The preadmission assessment shall include the following information, unless unavailable despite the best efforts of the licensee:

(a) Medical history;

(b) Necessary and contraindicated medications;

(c) A licensed medical or health professional's diagnosis, unless the individual objects for religious reasons;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness diagnosis, except where protected by confidentiality laws;

(f) Level of personal care needs;

(g) Activities and service preferences; and

(h) Preferences regarding other issues important to the resident applicant, such as food and daily routine.

(2) The assisted living facility licensee shall complete the preadmission assessment before admission unless there is an emergency. If there is an emergency admission, the preadmission assessment shall be completed within five days of the date of admission. For purposes of this section, "emergency" includes, but is not limited to: Evening, weekend, or Friday afternoon admissions if the resident applicant would otherwise need to remain in an unsafe setting or be without adequate and safe housing.

(3) The assisted living facility licensee shall complete an initial resident service plan upon move-in to identify the resident's immediate needs and to provide direction to staff and caregivers relating to the resident's immediate needs. The initial resident service plan shall include as much information as can be obtained, under subsection (1) of this section.

(4) When a facility provides respite care, before or at the time of admission, the facility must obtain sufficient information to meet the individual's anticipated needs. At a minimum, such information must include:

(a) The name, address, and telephone number of the individual's attending physician, and alternate physician if any;

(b) Medical and social history, which may be obtained from a respite care assessment and service plan performed by a case manager designated by an area agency on aging under contract with the department, and mental and physical assessment data;

(c) Physician's orders for diet, medication, and routine care consistent with the individual's status on admission;

(d) Ensure the individuals have assessments performed, where needed, and where the assessment of the individual reveals symptoms of tuberculosis, follow required tuberculosis testing requirements; and

(e) With the participation of the individual and, where appropriate, their representative, develop a plan of care to maintain or improve their health and functional status during their stay in the facility. [2012 c 10 § 24; 2008 c 146 § 3; 2004 c 142 § 7.]

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Intent—Severability—2008 c 146: See notes following RCW 74.41.040.

Additional notes found at www.leg.wa.gov

18.20.360 Full reassessment of resident. (1) The assisted living facility licensee shall within fourteen days of the resident's date of move-in, unless extended by the department for good cause, and thereafter at least annually, complete a full reassessment addressing the following:

(a) The individual's recent medical history, including, but not limited to: A health professional's diagnosis, unless the resident objects for religious reasons; chronic, current, and potential skin conditions; known allergies to foods or medications; or other considerations for providing care or services;

(b) Current necessary and contraindicated medications and treatments for the individual, including:

(i) Any prescribed medications and over-the-counter medications that are commonly taken by the individual, and that the individual is able to independently self-administer or safely and accurately direct others to administer to him or her;

(ii) Any prescribed medications and over-the-counter medications that are commonly taken by the individual and that the individual is able to self-administer when he or she has the assistance of a resident-care staff person; and

(iii) Any prescribed medications and over-the-counter medications that are commonly taken by the individual and that the individual is not able to self-administer;

(c) The individual's nursing needs when the individual requires the services of a nurse on the assisted living facility premises;

(d) The individual's sensory abilities, including vision and hearing;

(e) The individual's communication abilities, including modes of expression, ability to make himself or herself understood, and ability to understand others;

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(f) Significant known behaviors or symptoms of the individual causing concern or requiring special care, including: History of substance abuse; history of harming self, others, or property, or other conditions that may require behavioral intervention strategies; the individual's ability to leave the assisted living facility unsupervised; and other safety considerations that may pose a danger to the individual or others, such as use of medical devices or the individual's ability to smoke unsupervised, if smoking is permitted in the assisted living facility;

(g) The individual's special needs, by evaluating available information, or selecting and using an appropriate tool to determine the presence of symptoms consistent with, and implications for care and services of: Mental illness, or needs for psychological or mental health services, except where protected by confidentiality laws; developmental disability; dementia; or other conditions affecting cognition, such as traumatic brain injury;

(h) The individual's level of personal care needs, including: Ability to perform activities of daily living; medication management ability, including the individual's ability to obtain and appropriately use over-the-counter medications; and how the individual will obtain prescribed medications for use in the assisted living facility;

(i) The individual's activities, typical daily routines, habits, and service preferences;

(j) The individual's personal identity and lifestyle, to the extent the individual is willing to share the information, and the manner in which they are expressed, including preferences regarding food, community contacts, hobbies, spiritual preferences, or other sources of pleasure and comfort; and

(k) Who has decision-making authority for the individual, including: The presence of any advance directive, or other legal document that will establish a substitute decision maker in the future; the presence of any legal document that establishes a current substitute decision maker; and the scope of decision-making authority of any substitute decision maker.

(2) The assisted living facility shall complete a limited assessment of a resident's change of condition when the resident's negotiated service agreement no longer addresses the resident's current needs. [2012 c 10 § 25; 2004 c 142 § 8.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.370 Negotiated service agreement. (1) The assisted living facility licensee shall complete a negotiated service agreement using the preadmission assessment, initial resident service plan, and full reassessment information obtained under RCW 18.20.350 and 18.20.360. The licensee shall include the resident and the resident's legal representative if any, or the resident's representative if any, in the development of the negotiated service agreement. If the resident is a medicaid client, the department's case manager shall also be involved.

(2) The negotiated service agreement shall be completed or updated:

(a) Within thirty days of the date of move-in;

(b) As necessary following the annual full assessment of the resident; and

(c) Whenever the resident's negotiated service agreement no longer adequately addresses the resident's current needs and preferences. [2012 c 10 § 26; 2004 c 142 § 9.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.380 Provision of outside services—Licensee's duty of care/negligence. (1) The assisted living facility licensee shall permit the resident, or the resident's legal representative if any, to independently arrange for or contract with a practitioner licensed under Title 18 RCW regulating health care professions, or a home health, hospice, or home care agency licensed under chapter 70.127 RCW, to provide on-site care and services to the resident, consistent with RCW 18.20.160 and chapter 70.129 RCW. The licensee may permit the resident, or the resident's legal representative if any, to independently arrange for other persons to provide on-site care and services to the resident.

(2) The assisted living facility licensee may establish policies and procedures that describe limitations, conditions, or requirements that must be met prior to an outside service provider being allowed on-site.

(3) When the resident or the resident's legal representative independently arranges for outside services under subsection (1) of this section, the licensee's duty of care, and any negligence that may be attributed thereto, shall be limited to: The responsibilities described under subsection (4) of this section, excluding supervising the activities of the outside service provider; observation of the resident for changes in overall functioning, consistent with RCW 18.20.280; notification to the person or persons identified in RCW 70.129.030 when there are observed changes in the resident's overall functioning or condition; and appropriately responding to obtain needed assistance when there are observable or reported changes in the resident's physical or mental functioning.

(4) Consistent with RCW 18.20.280, the assisted living facility licensee shall not be responsible for supervising the activities of the outside service provider. When information sharing is authorized by the resident or the resident's legal representative, the licensee shall request such information and integrate relevant information from the outside service provider into the resident's negotiated service agreement, only to the extent that such information is actually shared with the licensee. [2012 c 10 § 27; 2004 c 142 § 10.]

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.20.390 Quality assurance committee. (1) To ensure the proper delivery of services and the maintenance and improvement in quality of care through self-review, any assisted living facility licensed under this chapter may maintain a quality assurance committee that, at a minimum, includes:

(a) A licensed registered nurse under chapter 18.79 RCW;

(b) The administrator; and

(c) Three other members from the staff of the assisted living facility.

(2) When established, the quality assurance committee shall meet at least quarterly to identify issues that may

adversely affect quality of care and services to residents and to develop and implement plans of action to correct identified quality concerns or deficiencies in the quality of care provided to residents.

(3) To promote quality of care through self-review without the fear of reprisal, and to enhance the objectivity of the review process, the department shall not require, and the long-term care ombuds program shall not request, disclosure of any quality assurance committee records or reports, unless the disclosure is related to the committee's compliance with this section, if:

(a) The records or reports are not maintained pursuant to statutory or regulatory mandate; and

(b) The records or reports are created for and collected and maintained by the committee.

(4) If the assisted living facility refuses to release records or reports that would otherwise be protected under this section, the department may then request only that information that is necessary to determine whether the assisted living facility has a quality assurance committee and to determine that it is operating in compliance with this section. However, if the assisted living facility offers the department documents generated by, or for, the quality assurance committee as evidence of compliance with assisted living facility requirements, the documents are protected as quality assurance committee documents under subsections (6) and (8) of this section when in the possession of the department. The department is not liable for an inadvertent disclosure, a disclosure related to a required federal or state audit, or disclosure of documents incorrectly marked as quality assurance committee documents by the facility.

(5) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for sanctions.

(6) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude:

(a) In any civil action, the discovery of the identity of persons involved in the care that is the basis of the civil action whose involvement was independent of any quality improvement committee activity;

(b) In any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of their participation in the quality assurance committee activities.

(7) A quality assurance committee under subsection (1) of this section, RCW 70.41.200, 74.42.640, 4.24.250, or 43.70.510 may share information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, the committee, with one or more other quality assurance committees created under subsection (1) of this section, RCW 70.41.200,

74.42.640, 4.24.250, or 43.70.510 for the improvement of the quality of care and services rendered to assisted living facility residents. Information and documents disclosed by one quality assurance committee to another quality assurance committee and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsections (6) and (8) of this section, RCW 43.70.510(4), 70.41.200(3), 4.24.250(1), and 74.42.640 (7) and (9). The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws.

(8) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are exempt from disclosure under chapter 42.56 RCW.

(9) Notwithstanding any records created for the quality assurance committee, the facility shall fully set forth in the resident's records, available to the resident, the department, and others as permitted by law, the facts concerning any incident of injury or loss to the resident, the steps taken by the facility to address the resident's needs, and the resident outcome. [2013 c 23 § 11; 2012 c 10 § 28; 2006 c 209 § 3; 2005 c 33 § 2; 2004 c 144 § 2.]

Application—2012 c 10: See note following RCW 18.20.010.

Effective date—2006 c 209: See RCW 42.56.903.

Findings—2005 c 33: "The legislature finds that facilitation of the quality assurance process in licensed boarding homes and nursing homes will promote safe patient care. The legislature also finds that communication and quality assurance efforts by boarding homes and nursing homes will achieve the goal of providing high quality of care to citizens residing in licensed boarding homes and nursing homes, and may reduce property and liability insurance premium costs for such facilities. The legislature further finds that sharing of quality assurance information between boarding homes, nursing homes, coordinated quality improvement plans, peer review organizations, and hospitals will promote safe patient care and ensure consistency of care across organizations and practices." [2005 c 33 § 1.]

Finding—2004 c 144: "The legislature finds that quality assurance efforts will promote compliance with regulations by providers and achieve the goal of providing high quality of care to citizens residing in licensed boarding homes, and may reduce property and liability insurance premium costs for such facilities." [2004 c 144 § 1.]

Additional notes found at www.leg.wa.gov

18.20.400 Correction of violation/deficiency—Not included in facility report. If during an inspection, reinspection, or complaint investigation by the department, an assisted living facility corrects a violation or deficiency that the department discovers, the department shall record and consider such violation or deficiency for purposes of the facility's compliance history, however the licensor or complaint investigator shall not include in the facility report the violation or deficiency if the violation or deficiency:

- (1) Is corrected to the satisfaction of the department prior to the exit conference;
- (2) Is not recurring; and
- (3) Did not pose a significant risk of harm or actual harm to a resident.

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For the purposes of this section, "recurring" means that the violation or deficiency was found under the same regulation or statute in one of the two most recent preceding inspections, reinspections, or complaint investigations. [2012 c 10 § 29; 2004 c 144 § 4.]

Application—2012 c 10: See note following RCW 18.20.010.

Finding—Effective date—2004 c 144: See notes following RCW 18.20.390.

18.20.410 Standards for small assisted living facilities—Study. The department of health, the department, and the building code council shall develop standards for small assisted living facilities between seven and sixteen beds that address at least the following issues:

- (1) Domestic food refrigeration and freezer storage;
- (2) Sinks and sink placement;
- (3) Dishwashers;
- (4) Use of heat supplements for water temperature in clothes washers;
- (5) Yard shrubbery;
- (6) Number of janitorial rooms in a facility;
- (7) Number and cross-purpose of dirty rooms;
- (8) Instant hot water faucets;
- (9) Medication refrigeration; and
- (10) Walled and gated facilities.

Based on the standards developed under this section, the department of health and the building code council shall study the risks and benefits of modifying and simplifying construction and equipment standards for assisted living facilities with a capacity of seven to sixteen persons. The study shall include coordination with the department. The department of health shall report its findings and recommendations to appropriate committees of the legislature no later than December 1, 2005. [2012 c 10 § 30; 2005 c 505 § 1.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.415 Rule-making authority. The department of health and the department of social and health services may adopt rules to implement RCW 18.20.410. [2005 c 505 § 2.]

18.20.420 Temporary management. (1) If the department determines that the health, safety, or welfare of residents is immediately jeopardized by an assisted living facility's failure or refusal to comply with the requirements of this chapter or the rules adopted under this chapter, and the department summarily suspends the assisted living facility license, the department may appoint a temporary manager of the assisted living facility, or the licensee may, subject to the department's approval, voluntarily participate in the temporary management program.

The purposes of the temporary management program are as follows:

- (a) To mitigate dislocation and transfer trauma of residents while the department and licensee may pursue dispute resolution or appeal of a summary suspension of license;
- (b) To facilitate the continuity of safe and appropriate resident care and services;
- (c) To protect the health, safety, and welfare of residents, by providing time for an orderly closure of the assisted living facility, or for the deficiencies that necessitated temporary management to be corrected; and

(d) To preserve a residential option that meets a specialized service need or is in a geographical area that has a lack of available providers.

(2) The department may recruit, approve, and appoint qualified individuals, partnerships, corporations, and other entities interested in serving as a temporary manager of an assisted living facility. These individuals and entities shall satisfy the criteria established under this chapter or by the department for approving licensees. The department shall not approve or appoint any person, including partnerships and other entities, if that person is affiliated with the assisted living facility subject to the temporary management, or has owned or operated an assisted living facility ordered into temporary management or receivership in any state. When approving or appointing a temporary manager, the department shall consider the temporary manager's past experience in long-term care, the quality of care provided, the temporary manager's availability, and the person's familiarity with applicable state and federal laws. Subject to the provisions of this section and RCW 18.20.430, the department's authority to approve or appoint a temporary manager is discretionary and not subject to the administrative procedure act, chapter 34.05 RCW.

(3) When the department appoints a temporary manager, the department shall enter into a contract with the temporary manager and shall order the licensee to cease operating the assisted living facility and immediately turn over to the temporary manager possession and control of the assisted living facility, including but not limited to all resident care records, financial records, and other records necessary for operation of the facility while temporary management is in effect. If the department has not appointed a temporary manager and the licensee elects to participate in the temporary management program, the licensee shall select the temporary manager, subject to the department's approval, and enter into a contract with the temporary manager, consistent with this section. The department has the discretion to approve or revoke any temporary management arrangements made by the licensee.

(4) When the department appoints a temporary manager, the costs associated with the temporary management may be paid for through the assisted living facility temporary management account established by RCW 18.20.430, or from other departmental funds, or a combination thereof. All funds must be administered according to department procedures. The department may enter into an agreement with the licensee allowing the licensee to pay for some of the costs associated with a temporary manager appointed by the department. If the department has not appointed a temporary manager and the licensee elects to participate in the temporary management program, the licensee is responsible for all costs related to administering the temporary management program at the assisted living facility and contracting with the temporary manager.

(5) The temporary manager shall assume full responsibility for the daily operations of the assisted living facility and is responsible for correcting cited deficiencies and ensuring that all minimum licensing requirements are met. The temporary manager must comply with all state and federal laws and regulations applicable to assisted living facilities. The temporary manager shall protect the health, safety, and welfare of the residents for the duration of the temporary

management and shall perform all acts reasonably necessary to ensure residents' needs are met. The temporary management contract shall address the responsibility of the temporary manager to pay past due debts. The temporary manager's specific responsibilities may include, but are not limited to:

(a) Receiving and expending in a prudent and business-like manner all current revenues of the assisted living facility, provided that priority is given to debts and expenditures directly related to providing care and meeting residents' needs;

(b) Hiring and managing all consultants and employees and firing them for good cause;

(c) Making necessary purchases, repairs, and replacements, provided that such expenditures in excess of five thousand dollars by a temporary manager appointed by the department must be approved by the department;

(d) Entering into contracts necessary for the operation of the assisted living facility;

(e) Preserving resident trust funds and resident records; and

(f) Preparing all department-required reports, including a detailed monthly accounting of all expenditures and liabilities, which shall be sent to the department and the licensee.

(6) The licensee and department shall provide written notification immediately to all residents, resident representatives, interested family members, and the state long-term care ombuds program of the temporary management and the reasons for it. This notification shall include notice that residents may move from the assisted living facility without notifying the licensee or temporary manager in advance, and without incurring any charges, fees, or costs otherwise available for insufficient advance notice, during the temporary management period. The notification shall also inform residents and their families or representatives that the temporary management team will provide residents help with relocation and appropriate discharge planning and coordination if desired. The department shall provide assistance with relocation to residents who are department clients and may provide such assistance to other residents. The temporary manager shall meet regularly with staff, residents, residents' representatives, and families to inform them of the plans for and progress achieved in the correction of deficiencies, and of the plans for facility closure or continued operation.

(7) The department shall terminate temporary management:

(a) After sixty days unless good cause is shown to continue the temporary management. Good cause for continuing the temporary management exists when returning the assisted living facility to its former licensee would subject residents to a threat to health, safety, or welfare;

(b) When all residents are transferred and the assisted living facility is closed;

(c) When deficiencies threatening residents' health, safety, or welfare are eliminated and the former licensee agrees to department-specified conditions regarding the continued facility operation; or

(d) When a new licensee assumes control of the assisted living facility.

Nothing in this section precludes the department from revoking its approval of the temporary management or exercising its licensing enforcement authority under this chapter.

The department's decision whether to approve or to revoke a temporary management arrangement is not subject to the administrative procedure act, chapter 34.05 RCW.

(8) The department shall indemnify, defend, and hold harmless any temporary manager appointed or approved under this section against claims made against the temporary manager for any actions by the temporary manager or its agents that do not amount to intentional torts or criminal behavior.

(9) The department may adopt rules implementing this section. In the development of rules or policies implementing this section, the department shall consult with residents and their representatives, resident advocates, financial professionals, assisted living facility providers, and organizations representing assisted living facilities. [2013 c 23 § 12; 2012 c 10 § 31; 2007 c 162 § 1.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.430 Assisted living facility temporary management account. The assisted living facility temporary management account is created in the custody of the state treasurer. All receipts from civil penalties imposed under this chapter must be deposited into the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used only for the protection of the health, safety, welfare, or property of residents of assisted living facilities found to be deficient. Uses of the account include, but are not limited to:

(1) Payment for the costs of relocation of residents to other facilities;

(2) Payment to maintain operation of an assisted living facility pending correction of deficiencies or closure, including payment of costs associated with temporary management authorized under this chapter; and

(3) Reimbursement of residents for personal funds or property lost or stolen when the resident's personal funds or property cannot be recovered from the assisted living facility or third-party insurer.

During the 2015-2017 fiscal biennium, the account may be expended for funding the costs associated with the assisted living program. [2016 1st sp.s. c 36 § 912; 2012 c 10 § 32; 2007 c 162 § 2.]

Effective date—2016 1st sp.s. c 36: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 18, 2016]." [2016 1st sp.s. c 36 § 952.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.440 Withdrawal from medicaid program—Notice—Duties. (1) If an assisted living facility voluntarily withdraws from participation in a state medicaid program for residential care and services under chapter 74.39A RCW, but continues to provide services of the type provided by assisted living facilities, the facility's voluntary withdrawal from participation is not an acceptable basis for the transfer or discharge of residents of the facility (a) who were receiving medicaid on the day before the effective date of the withdrawal; or (b) who have been paying the facility privately for

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at least two years and who become eligible for medicaid within one hundred eighty days of the date of withdrawal.

(2) An assisted living facility that has withdrawn from the state medicaid program for residential care and services under chapter 74.39A RCW must provide the following oral and written notices to prospective residents. The written notice must be prominent and must be written on a page that is separate from the other admission documents. The notice shall provide that:

(a) The facility will not participate in the medicaid program with respect to that resident; and

(b) The facility may transfer or discharge the resident from the facility for nonpayment, even if the resident becomes eligible for medicaid.

(3) Notwithstanding any other provision of this section, the medicaid contract under chapter 74.39A RCW that exists on the day the facility withdraws from medicaid participation is deemed to continue in effect as to the persons described in subsection (1) of this section for the purposes of:

(a) Department payments for the residential care and services provided to such persons;

(b) Maintaining compliance with all requirements of the medicaid contract between the department and the facility; and

(c) Ongoing inspection, contracting, and enforcement authority under the medicaid contract, regulations, and law.

(4) Except as provided in subsection (1) of this section, this section shall not apply to a person who begins residence in a facility on or after the effective date of the facility's withdrawal from participation in the medicaid program for residential care and services.

(5) An assisted living facility that is providing residential care and services under chapter 74.39A RCW shall give the department and its residents sixty days' advance notice of the facility's intent to withdraw from participation in the medicaid program.

(6) Prior to admission to the facility, an assisted living facility participating in the state medicaid program for residential care and services under chapter 74.39A RCW must provide the following oral and written notices to prospective residents. The written notice must be prominent and must be written on a page that is separate from the other admission documents, and must provide that:

(a) In the future, the facility may choose to withdraw from participating in the medicaid program;

(b) If the facility withdraws from the medicaid program, it will continue to provide services to residents (i) who were receiving medicaid on the day before the effective date of the withdrawal; or (ii) who have been paying the facility privately for at least two years and who will become eligible for medicaid within one hundred eighty days of the date of withdrawal;

(c) After a facility withdraws from the medicaid program, it may transfer or discharge residents who do not meet the criteria described in this section for nonpayment, even if the resident becomes eligible for medicaid. [2012 c 10 § 33; 2008 c 251 § 1.]

Application—2012 c 10: See note following RCW 18.20.010.

Effective date—2008 c 251: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately

[March 28, 2008], except for *section 2 of this act which applies retroactively to September 1, 2007." [2008 c 251 § 3.]

*Reviser's note: Section 2 of this act was vetoed by the governor.

18.20.900 Severability—1957 c 253. If any part, or parts, of this chapter shall be held unconstitutional, the remaining provisions shall be given full force and effect, as completely as if the part held unconstitutional had not been included herein, if any such remaining part can then be administered for the purpose of establishing and maintaining standards for assisted living facilities. [2012 c 10 § 34; 1957 c 253 § 20.]

Application—2012 c 10: See note following RCW 18.20.010.

18.20.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 45.]

Chapter 18.22 RCW

PODIATRIC MEDICINE AND SURGERY

Sections

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Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Rebating by practitioners of healing professions prohibited: Chapter 19.68 RCW.

18.22.003 Regulation of health care professions—Criteria. See chapter 18.120 RCW.

18.22.005 Legislative finding—Purpose. The legislature finds that the conduct of podiatric physicians and surgeons licensed to practice in this state plays a vital role in preserving the public health and well-being. The purpose of this chapter is to establish an effective public agency to regulate the practice of podiatric medicine and surgery for the protection and promotion of the public health, safety, and welfare and to act as a disciplinary body for the licensed podiatric physicians and surgeons of this state and to ensure that only individuals who meet and maintain minimum standards of competence and conduct may obtain a license to provide podiatric services to the public. [1990 c 147 § 1; 1982 c 21 § 1.]

18.22.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

- (1) "Podiatric physician and surgeon" means an individual licensed under this chapter.
- (2) "Board" means the Washington state podiatric medical board.
- (3) "Department" means the department of health.
- (4) "Secretary" means the secretary of health or the secretary's designee.

(5) "Approved school of podiatric medicine and surgery" means a school approved by the board, which may consider official recognition of the Council of Education of the American Podiatric Medical Association in determining the approval of schools of podiatric medicine and surgery. [1990 c 147 § 2; 1982 c 21 § 2; 1973 c 77 § 1; 1955 c 149 § 1; 1941 c 31 § 1; 1921 c 120 § 1; 1917 c 38 § 1; Rem. Supp. 1941 § 10074.]

18.22.013 Podiatric medical board—Membership. There is created the Washington state podiatric medical board consisting of five members to be appointed by the governor. All members shall be residents of the state. One member shall be a consumer whose occupation does not include the administration of health activities or the providing of health services and who has no material financial interest in providing health care services. Four members shall be podiatric physicians and surgeons who at the time of appointment have been licensed under the laws of this state for at least five consecutive years immediately preceding appointment and shall at all times during their terms remain licensed podiatric physicians and surgeons.

Board members shall serve five-year terms. No person may serve more than two consecutive terms on the board. Each member shall take the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of appointment and until a successor is appointed and sworn.

Each member is subject to removal at the pleasure of the governor. If a vacancy on the board occurs from any cause, the governor shall appoint a successor for the unexpired term. [1990 c 147 § 3; 1982 c 21 § 8.]

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.22.014 Board—Officers—Members' compensation and travel expenses. The board shall meet at the places and times it determines and as often as necessary to discharge its duties. The board shall elect a chairperson, vice chairperson, and secretary from among its members. Members shall be compensated in accordance with RCW 43.03.240 in addition to travel expenses provided by RCW 43.03.050 and 43.03.060. A simple majority of the board members currently serving constitutes a quorum of the board. [1990 c 147 § 4; 1984 c 287 § 26; 1982 c 21 § 9.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

18.22.015 Board—Duties—Rules. The board shall:

- (1) Administer all laws placed under its jurisdiction;
- (2) Prepare, grade, and administer or determine the nature, grading, and administration of examinations for applicants for podiatric physician and surgeon licenses;
- (3) Examine and investigate all applicants for podiatric physician and surgeon licenses and certify to the secretary all applicants it judges to be properly qualified;
- (4) Adopt any rules which it considers necessary or proper to carry out the purposes of this chapter;
- (5) Adopt rules governing the administration of sedation and anesthesia in the offices of persons licensed under this chapter, including necessary training and equipment;
- (6) Determine which schools of podiatric medicine and surgery will be approved. [2007 c 273 § 28; 1990 c 147 § 5; 1986 c 259 § 18; 1982 c 21 § 10.]

Effective date—Implementation—2007 c 273: See RCW 70.230.900 and 70.230.901.

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

Additional notes found at www.leg.wa.gov

18.22.018 Application of uniform disciplinary act. 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. [1987 c 150 § 10; 1986 c 259 § 17.]

Additional notes found at www.leg.wa.gov

18.22.021 License required. 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. [1987 c 150 § 11.]

Additional notes found at www.leg.wa.gov

18.22.025 License required to practice podiatric medicine and surgery. No person may practice or represent himself or herself as a podiatric physician and surgeon without first applying for and receiving a license under this chapter to practice podiatric medicine and surgery. [1990 c 147 § 7.]

18.22.035 Practice of podiatric medicine and surgery—Quality—Definition—Prescriptions—Limitations. (1) A podiatric physician and surgeon is responsible for the quality of podiatric care.

(2016 Ed.)

(2) The practice of podiatric medicine and surgery is the diagnosis and the medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the human foot.

(3) Podiatric physicians and surgeons may issue prescriptions valid at any pharmacy for any drug, including narcotics, necessary in the practice of podiatry.

(4) Podiatrists shall not:

- (a) Amputate the foot;
- (b) Administer spinal anesthetic or any anesthetic that renders the patient unconscious; or
- (c) Treat systemic conditions. [1990 c 147 § 6.]

18.22.040 Applicants—Fee—Eligibility. Before any person may take an examination for the issuance of a podiatric physician and surgeon license, the applicant shall submit a completed application and a fee determined by the secretary as provided in RCW 43.70.250. The applicant shall also furnish the secretary and the board with satisfactory proof that:

- (1) The applicant has not engaged in unprofessional conduct as defined in chapter 18.130 RCW and is not unable to practice with reasonable skill and safety as a result of a physical or mental impairment;
- (2) The applicant has satisfactorily completed a course in an approved school of podiatric medicine and surgery;
- (3) The applicant has completed one year of postgraduate podiatric medical training in a program approved by the board, provided that applicants graduating before July 1, 1993, shall be exempt from the postgraduate training requirement. [2000 c 171 § 4; 1993 c 29 § 2; 1990 c 147 § 8; 1982 c 21 § 5; 1979 c 158 § 18; 1973 c 77 § 4; 1971 ex.s. c 292 § 19; 1955 c 149 § 2; 1935 c 48 § 3; 1921 c 120 § 3; 1917 c 38 § 6; RRS § 10079.]

Additional notes found at www.leg.wa.gov

18.22.045 Postgraduate training license. The board may grant approval to issue a license without examination to a podiatric physician and surgeon in a board-approved postgraduate training program in this state if the applicant files an application and meets all the requirements for licensure set forth in RCW 18.22.040 except for completion of one year of postgraduate training. The secretary shall issue a postgraduate podiatric medicine and surgery license that permits the physician to practice podiatric medicine and surgery only in connection with his or her duties in the postgraduate training program. The postgraduate training license does not authorize the podiatric physician to engage in any other form of practice. Each podiatric physician and surgeon in postgraduate training shall practice podiatric medicine and surgery under the supervision of a physician licensed in this state under this chapter, or chapter 18.71 or 18.57 RCW, but such supervision shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

All persons licensed under this section shall be subject to the jurisdiction of the podiatric medical board as set forth in this chapter and chapter 18.130 RCW.

Persons applying for licensure pursuant to this section shall pay an application and renewal fee determined by the secretary as provided in RCW 43.70.250. Postgraduate training licenses may be renewed annually. Any person who obtains a license pursuant to this section may apply for licen-

sure under this chapter but shall submit a new application form and comply with all other licensing requirements of this chapter. [1993 c 29 § 1.]

18.22.060 Examination—Date, location, and application—Reexamination. (1) The date and location of the examination shall be established by the board. Applicants who have met the requirements for examination under RCW 18.22.040 will be scheduled for the next examination after the filing of the complete application. The board shall establish by rule the examination application deadline.

(2) An applicant who fails to pass an examination satisfactorily is entitled to reexamination upon the payment of a fee for each reexamination determined by the secretary as provided in RCW 43.70.250. [1990 c 147 § 9; 1985 c 7 § 11; 1982 c 21 § 7; 1975 1st ex.s. c 30 § 16; 1973 c 77 § 6; 1965 c 97 § 1; 1957 c 52 § 14. Prior: (i) 1921 c 120 § 5; 1917 c 38 § 9; RRS § 10082. (ii) 1921 c 120 § 4; 1917 c 38 § 7; RRS § 10080.]

18.22.082 License—Reciprocity. An applicant holding a license to practice podiatric medicine and surgery in another state may be licensed without examination if the secretary determines that the other state's licensing standards are substantively equivalent to the standards in this state. [1990 c 147 § 10.]

18.22.083 License—Examination to determine professional qualifications. Before being issued a license to practice podiatric medicine and surgery, applicants must successfully pass the examinations administered by the national board of podiatry examiners and an examination administered or approved by the board to determine their professional qualifications. The examination administered by the board shall include the subject areas as the board may require by rule.

The board may approve an examination prepared or administered, or both, by a private testing agency, other licensing authority, or association of licensing authorities.

The board may by rule establish the passing grade for the examination. [1990 c 147 § 11; 1982 c 21 § 13.]

18.22.110 License—Display. Every holder of a podiatric physician and surgeon license shall keep the license on exhibition in a conspicuous place in the holder's office or place of business. [1990 c 147 § 12; 1973 c 77 § 9; 1957 c 52 § 15. Prior: 1917 c 38 § 2, part; RRS § 10075, part.]

18.22.120 License renewal. The board shall establish by rule the requirements for renewal of licenses and relicensing. Administrative procedures, administrative requirements, and fees shall be established as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 7; 1990 c 147 § 13; 1985 c 7 § 13; 1982 c 21 § 14; 1975 1st ex.s. c 30 § 18; 1973 c 77 § 10; 1971 ex.s. c 266 § 4; 1965 c 97 § 2; 1955 c 149 § 6. Prior: (i) 1921 c 120 § 5, part; 1917 c 38 § 9, part; RRS § 10082, part. (ii) 1921 c 120 § 9; RRS § 10096.]

18.22.125 License—Inactive status. (1) An individual may place his or her license on inactive status. The holder of

an inactive license shall not practice podiatric medicine and surgery in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary under RCW 43.70.250, but may not exceed twenty-five percent of the active license renewal fee. Failure to renew an inactive license results in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with the rules established by the board.

(4) The provisions of this chapter relating to the denial, suspension, and revocation of a license are applicable to an inactive license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license remains inactive until the proceedings have been completed. [1990 c 147 § 14.]

18.22.191 Rules and regulations. The secretary shall have the power and duty to formulate and prescribe such rules and regulations as may be reasonable in the proper administration of this chapter. In addition to any other authority provided by law, the secretary may:

- (1) Set all fees required in this chapter in accordance with RCW 43.70.250;
- (2) Establish forms necessary to administer this chapter;
- (3) Maintain the official department record of all applicants and licensees. [1990 c 147 § 15; 1955 c 149 § 13.]

18.22.210 Unlawful practice—Evidence of. It is prima facie evidence of the practice of podiatric medicine and surgery or of holding oneself out as a practitioner of podiatric medicine and surgery within the meaning of this chapter for any person to treat in any manner ailments of the human foot by medical, surgical, or mechanical means or appliances, or to use the title "podiatrist," "podiatric physician and surgeon," or any other words or letters which designate or tend to designate to the public that the person so treating or holding himself or herself out to treat, is a podiatric physician and surgeon. [1990 c 147 § 16; 1982 c 21 § 17; 1973 c 77 § 17; 1935 c 48 § 4; 1921 c 120 § 6; 1917 c 38 § 10; RRS § 10083.]

18.22.220 Violations—Penalty. Every person violating, or failing to comply with, the provisions of this chapter shall be guilty of a gross misdemeanor. [1955 c 149 § 10; 1917 c 38 § 21; RRS § 10094.]

18.22.230 Exemptions. The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The practice of podiatric medicine and surgery by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed by the laws and regulations of the United States;

(2) The practice of podiatric medicine and surgery by students enrolled in a school approved by the board. The performance of services must be pursuant to a course of instruction or assignments from an instructor and under the supervision of the instructor;

(3) The practice of podiatric medicine and surgery by licensed podiatric physicians and surgeons of other states or countries while appearing at educational seminars;

(4) The use of roentgen and other rays for making radiograms or similar records of the feet or portions thereof, under the supervision of a licensed podiatric physician and surgeon or a physician;

(5) The practice of podiatric medicine and surgery by externs, interns, and residents in training programs approved by the American Podiatric Medical Association;

(6) The performing of podiatric services by persons not licensed under this chapter when performed under the supervision of a licensed podiatrist if those services are authorized by board rule or other law to be so performed;

(7) The treatment of ailments of the feet by physicians licensed under chapter 18.57 or 18.71 RCW, or other licensed health professionals practicing within the scope of their licenses;

(8) The domestic administration of family remedies or treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination. [1990 c 147 § 17; 1982 c 21 § 19; 1973 c 77 § 19; 1955 c 149 § 12.]

18.22.240 Pain management rules—Repeal—Adoption of new rules. (1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-922-510 through 246-922-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a podiatric physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a podiatric physician and surgeon from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of podiatric physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure. [2010 c 209 § 1.]

18.22.950 Short title. This chapter shall be known as the Podiatric Physician and Surgeon Practice Act. [1990 c 147 § 19.]

Chapter 18.25 RCW CHIROPRACTIC

Sections

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Lien of doctors: Chapter 60.44 RCW.

Rebating by practitioners of healing professions prohibited: Chapter 19.68 RCW.

18.25.002 Purpose. This chapter is enacted:

(1) In the exercise of the police power of the state and to provide an adequate public agency to act as a disciplinary body for the members of the chiropractic profession licensed to practice chiropractic in this state;

(2) Because the health and well-being of the people of this state are of paramount importance;

(3) Because the conduct of members of the chiropractic profession licensed to practice chiropractic in this state plays

a vital role in preserving the health and well-being of the people of the state; and

(4) Because practicing other healing arts while licensed to practice chiropractic and while holding one's self out to the public as a chiropractor affects the health and welfare of the people of the state.

It is the purpose of the commission established under RCW 18.25.0151 to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state. [1994 sp.s. c 9 § 101.]

18.25.003 Regulation of health care professions—Criteria. See chapter 18.120 RCW.

18.25.005 "Chiropractic" defined. (1) Chiropractic is the practice of health care that deals with the diagnosis or analysis and care or treatment of the vertebral subluxation complex and its effects, articular dysfunction, and musculoskeletal disorders, all for the restoration and maintenance of health and recognizing the recuperative powers of the body.

(2) Chiropractic treatment or care includes the use of procedures involving spinal adjustments and extremity manipulation. Chiropractic treatment also includes the use of heat, cold, water, exercise, massage, trigger point therapy, dietary advice and recommendation of nutritional supplementation, the normal regimen and rehabilitation of the patient, first aid, and counseling on hygiene, sanitation, and preventive measures. Chiropractic care also includes such physiological therapeutic procedures as traction and light, but does not include procedures involving the application of sound, diathermy, or electricity.

(3) As part of a chiropractic differential diagnosis, a chiropractor shall perform a physical examination, which may include diagnostic x-rays, to determine the appropriateness of chiropractic care or the need for referral to other health care providers. The chiropractic quality assurance commission shall provide by rule for the type and use of diagnostic and analytical devices and procedures consistent with this chapter.

(4) Chiropractic care shall not include the prescription or dispensing of any medicine or drug, the practice of obstetrics or surgery, the use of x-rays or any other form of radiation for therapeutic purposes, colonic irrigation, or any form of venipuncture.

(5) Nothing in this chapter prohibits or restricts any other practitioner of a "health profession" defined in RCW 18.120.020(4) from performing any functions or procedures the practitioner is licensed or permitted to perform, and the term "chiropractic" as defined in this chapter shall not prohibit a practitioner licensed under chapter 18.71 RCW from performing medical procedures, except such procedures shall not include the adjustment by hand of any articulation of the spine. [2002 c 225 § 1; 1994 sp.s. c 9 § 102; 1992 c 241 § 2; 1974 ex.s. c 97 § 7.]

Intent—1992 c 241: "This act is intended to expand the scope of practice of chiropractic only with regard to adjustment of extremities in connection with a spinal adjustment." [1992 c 241 § 1.]

Additional notes found at www.leg.wa.gov

18.25.006 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of the department of health or the secretary's designee.

(3) "Chiropractor" means an individual licensed under this chapter.

(4) "Commission" means the Washington state chiropractic quality assurance commission.

(5) "Vertebral subluxation complex" means a functional defect or alteration of the biomechanical and physiological dynamics in a joint that may cause neuronal disturbances, with or without displacement detectable by X-ray. The effects of the vertebral subluxation complex may include, but are not limited to, any of the following: Fixation, hypomobility, hypermobility, periarticular muscle spasm, edema, or inflammation.

(6) "Articular dysfunction" means an alteration of the biomechanical and physiological dynamics of a joint of the axial or appendicular skeleton.

(7) "Musculoskeletal disorders" means abnormalities of the muscles, bones, and connective tissue.

(8) "Chiropractic differential diagnosis" means a diagnosis to determine the existence of a vertebral subluxation complex, articular dysfunction, or musculoskeletal disorder, and the appropriateness of chiropractic care or the need for referral to other health care providers.

(9) "Chiropractic adjustment" means chiropractic care of a vertebral subluxation complex, articular dysfunction, or musculoskeletal disorder. Such care includes manual or mechanical adjustment of any vertebral articulation and contiguous articulations beyond the normal passive physiological range of motion.

(10) "Extremity manipulation" means a corrective thrust or maneuver applied to a joint of the appendicular skeleton. [2002 c 225 § 2; 1994 sp.s. c 9 § 103; 1992 c 241 § 3; 1991 c 3 § 36; 1989 c 258 § 12.]

Intent—1992 c 241: See note following RCW 18.25.005.

18.25.011 License required. 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. [1987 c 150 § 14.]

Additional notes found at www.leg.wa.gov

18.25.0151 Commission established—Membership. The Washington state chiropractic quality assurance commission is established, consisting of fourteen members appointed by the governor to four-year terms, and including eleven practicing chiropractors and three public members. No member may serve more than two consecutive full terms. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the governor appoint members of the previous boards and committees regulating this profession to the commission. Members of the

commission hold office until their successors are appointed. The governor may appoint the members of the initial commission to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. The governor may consider persons who are recommended for appointment by chiropractic associations of this state. [2000 c 171 § 5; 1994 sp.s. c 9 § 104.]

18.25.0161 Commission—Removal of member—Order of removal—Vacancy. The governor may remove a member of the commission for neglect of duty, misconduct, or malfeasance or misfeasance in office. Whenever the governor is satisfied that a member of the commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the order of removal and statement of causes by certified mail to the last known post office address of the member. If a vacancy occurs on the commission, the governor shall appoint a replacement to fill the remainder of the unexpired term. [1994 sp.s. c 9 § 105.]

18.25.0165 Commission—Qualifications of members. Members must be citizens of the United States and residents of this state. Members must be licensed chiropractors for a period of five years before appointment. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission. [1994 sp.s. c 9 § 106.]

18.25.0171 Commission—Duties and powers—Compensation—Rules. The commission shall elect officers each year. Meetings of the commission are open to the public, except that the commission may hold executive sessions to the extent permitted by chapter 42.30 RCW. The secretary of health shall furnish such secretarial, clerical, and other assistance as the commission may require.

Each member of the commission shall be compensated in accordance with RCW 43.03.265. 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.

A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business. The affirmative vote of a majority of a quorum of the commission is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

The commission may appoint members of panels of at least three members. A quorum for transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

The members of the commission are immune from suit in an action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the commission.

The commission may, whenever the workload of the commission requires, request that the secretary appoint pro

tempore members. While serving as members pro tempore persons have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses, of the commission.

The commission shall prepare or determine the nature of the examinations for applicants to practice chiropractic.

The commission may adopt such rules as are consistent with this chapter as may be deemed necessary and proper to carry out the purposes of this chapter. [1999 c 366 § 2; 1994 sp.s. c 9 § 107.]

18.25.0172 Commission successor to other boards, committee. The commission is the successor in interest of the board of chiropractic examiners, the chiropractic disciplinary board, and the chiropractic peer review committee. All contracts, undertakings, agreements, rules, regulations, and policies of those bodies continue in full force and effect on July 1, 1994, unless otherwise repealed or rejected by chapter 9, Laws of 1994 sp. sess. or by the commission. [1994 sp.s. c 9 § 119.]

18.25.0181 Commission—Information to legislature. In addition to the authority provided in RCW 42.52.804, the commission, its members, or staff as directed by the commission, may communicate, present information requested, volunteer information, testify before legislative committees, and educate the legislature, as the commission may from time to time see fit. [2013 c 81 § 2.]

Effective date—2013 c 81: See note following RCW 18.25.210.

18.25.019 Application of Uniform Disciplinary Act. 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. [1994 sp.s. c 9 § 108; 1987 c 150 § 12; 1986 c 259 § 21.]

Additional notes found at www.leg.wa.gov

18.25.0192 Discrimination—Legislative finding and declaration. The legislature finds and declares that the costs of health care to the people are rising disproportionately to other costs and that there is a paramount concern that the right of the people to obtain access to health care in all its facets is being impaired thereby. For this reason, the reliance on the mechanism of health care service contractors, whether profit or nonprofit, is the only effective manner in which the large majority of the people can attain access to quality health care, and it is therefore declared to be in the public interest that health care service contractors be regulated to assure that all the people have access to health care to the greatest extent possible. Chapter 97, Laws of 1974 ex. sess., prohibiting discrimination against the legally recognized and licensed profession of chiropractic, is necessary in the interest of the public health, welfare, and safety. [1974 ex.s. c 97 § 1. Formerly RCW 18.25.120.]

Additional notes found at www.leg.wa.gov

18.25.0193 Discrimination—Acceptance of services required. Notwithstanding any other provision of law, the state and its political subdivisions shall accept the services of licensed chiropractors for any service covered by their licenses with relation to any person receiving benefits, sala-

ries, wages, or any other type of compensation from the state, its agencies or subdivisions. [1974 ex.s. c 97 § 2. Formerly RCW 18.25.130.]

Additional notes found at www.leg.wa.gov

18.25.0194 Discrimination by governments prohibited. The state and its political subdivisions, and all officials, agents, employees, or representatives thereof, are prohibited from in any way discriminating against licensed chiropractors in performing and receiving compensation for services covered by their licenses. [1974 ex.s. c 97 § 3. Formerly RCW 18.25.140.]

Additional notes found at www.leg.wa.gov

18.25.0195 Discriminatory government contracts prohibited. Notwithstanding any other provision of law, the state and its political subdivisions, and all officials, agents, employees, or representatives thereof, are prohibited from entering into any agreement or contract with any individual, group, association, or corporation which in any way, directly or indirectly, discriminates against licensed chiropractors in performing and receiving compensation for services covered by their licenses. [1974 ex.s. c 97 § 4. Formerly RCW 18.25.150.]

Additional notes found at www.leg.wa.gov

18.25.0196 Discrimination—Policy costs as additional compensation. Notwithstanding any other provision of law, for the purpose of RCW 18.25.0192 through 18.25.0195 and 18.25.0197 it is immaterial whether the cost of any policy, plan, agreement, or contract be deemed additional compensation for services, or otherwise. [2000 c 171 § 6; 1974 ex.s. c 97 § 5. Formerly RCW 18.25.160.]

Additional notes found at www.leg.wa.gov

18.25.0197 Discrimination—Application of RCW 18.25.0192 through 18.25.0196. RCW 18.25.0192 through 18.25.0196 shall apply to all agreements, renewals, or contracts issued on or after July 24, 1974. [2000 c 171 § 7; 1974 ex.s. c 97 § 6. Formerly RCW 18.25.170.]

Additional notes found at www.leg.wa.gov

18.25.020 Applications—Qualifications—Fees. (1) Any person not now licensed to practice chiropractic in this state and who desires to practice chiropractic in this state, before it shall be lawful for him or her to do so, shall make application therefor to the secretary, upon such form and in such manner as may be adopted and directed by the secretary. Each applicant who matriculates to a chiropractic college, shall have completed not less than one-half of the requirements for a baccalaureate degree at an accredited and approved college or university and shall be a graduate of a chiropractic school or college accredited and approved by the commission and shall show satisfactory evidence of completion by each applicant of a resident course of study of not less than four thousand classroom hours of instruction in such school or college. Applications shall be in writing and shall be signed by the applicant, and shall recite the history of the applicant as to his or her educational advantages, his or her experience in matters pertaining to a knowledge of the care of the sick, how long he or she has studied chiropractic, under

what teachers, what collateral branches, if any, he or she has studied, the length of time he or she has engaged in clinical practice; accompanying the same by reference therein, with any proof thereof in the shape of diplomas, certificates, and shall accompany said application with satisfactory evidence of good character and reputation.

(2) Applicants shall follow administrative procedures and administrative requirements and pay fees as provided in RCW 43.70.250 and 43.70.280. [2015 c 72 § 7; 1996 c 191 § 8; 1994 sp.s. c 9 § 109; 1991 c 3 § 38; 1989 c 258 § 3; 1985 c 7 § 14; 1975 1st ex.s. c 30 § 19; 1974 ex.s. c 97 § 9; 1959 c 53 § 3; 1919 c 5 § 5; RRS § 10100.]

Additional notes found at www.leg.wa.gov

18.25.025 Accreditation of schools and colleges—Standards—Assistants for examinations authorized. The commission shall have authority to grant accreditation to chiropractic schools and colleges.

The commission shall have authority to adopt educational standards which may include standards of any accreditation agency recognized by the office of education of the department of health and human services or its successor agency, or any portion of such standards, as the commission's standards: PROVIDED, That such standards, so adopted, shall contain, as a minimum of on-campus instruction in chiropractic, the following: Principles of chiropractic, two hundred hours; adjunctive technique, four hundred hours; spinal roentgenology, one hundred seventy-five hours; symptomatology and diagnosis, four hundred twenty-five hours; clinic, six hundred twenty-five hours: PROVIDED FURTHER, That such standards shall not mandate, as a requirement for either graduation or accreditation, or include in the computation of hours of chiropractic instruction required by this section, instruction in the following: Mechanotherapy, physiotherapy, acupuncture, acupressure, or any other therapy.

The commission shall approve and accredit chiropractic colleges and schools which apply for commission accreditation and approval and which meet to the commission's satisfaction the educational standards adopted by the commission. It shall be the responsibility of the college to apply for accreditation and approval, and of a student to ascertain whether a college or school has been accredited or approved by the commission.

The commission shall have authority to engage assistants in the giving of examinations called for under this chapter. [1994 sp.s. c 9 § 110; 1980 c 51 § 3.]

Additional notes found at www.leg.wa.gov

18.25.030 Examinations—Subjects—Grades. Examinations for license to practice chiropractic shall be developed and administered, or approved, or both, by the commission according to the method deemed by it to be the most practicable and expeditious to test the applicant's qualifications. The commission may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The applicant shall be designated by a number instead of his or her name, so that the identity shall not be discovered or disclosed to the members of the commission until after the examination papers are graded.

Examination subjects may include the following: Anatomy, physiology, spinal anatomy, microbiology-public health, general diagnosis, neuromusculoskeletal diagnosis, X-ray, principles of chiropractic and adjusting, as taught by chiropractic schools and colleges, and any other subject areas consistent with chapter 18.25 RCW. The commission shall set the standards for passing the examination. The commission may enact additional requirements for testing administered by the national board of chiropractic examiners. [1995 c 198 § 1; 1994 sp.s. c 9 § 111; 1989 c 258 § 4; 1974 ex.s. c 97 § 10; 1959 c 53 § 4; 1919 c 5 § 6; RRS § 10101.]

Hiring assistants for examinations: RCW 18.25.025.

Additional notes found at www.leg.wa.gov

18.25.035 Waiver of examination. The commission may, in its discretion, waive any examination required by this chapter of persons applying for a license to practice chiropractic if, in its opinion, the applicant has successfully passed an examination conducted by the national board of chiropractic examiners of the United States that is of equal or greater difficulty than the examination being waived by the commission. [1994 sp.s. c 9 § 112; 1971 ex.s. c 227 § 5.]

18.25.040 Licensure by endorsement. Persons licensed to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada, having qualifications substantially equivalent to those required by this chapter, may, in the discretion of the commission, and after such examination as may be required by rule of the commission, be issued a license to practice in this state without further examination, upon payment of a fee determined by the secretary as provided in RCW 43.70.250. [1994 sp.s. c 9 § 113; 1991 c 320 § 8; 1991 c 3 § 39; 1985 c 7 § 15; 1975 1st ex.s. c 30 § 20; 1971 ex.s. c 227 § 6; 1919 c 5 § 14; RRS § 10108.]

18.25.070 License renewal—Continuing education—Rules. Every person practicing chiropractic shall, as a prerequisite to renewal of license, submit to the secretary at the time of application therefor, satisfactory proof showing attendance of at least twenty-five hours per year during the preceding credential period, at one or more chiropractic symposiums which are recognized and approved by the commission. The commission may, for good cause shown, waive said attendance. The following guidelines for such symposiums shall apply:

(1) The commission shall set criteria for the course content of educational symposia concerning matters which are recognized by the state of Washington chiropractic licensing laws; it shall be the licensee's responsibility to determine whether the course content meets these criteria;

(2) The commission shall adopt standards for distribution of annual continuing education credit requirements;

(3) Rules shall be adopted by the commission for licensees practicing and residing outside the state who shall meet all requirements established by rule of the commission. [1996 c 191 § 9; 1994 sp.s. c 9 § 114; 1991 c 3 § 40; 1989 c 258 § 5; 1985 c 7 § 17; 1980 c 51 § 2; 1975 1st ex.s. c 30 § 22; 1974 ex.s. c 97 § 11; 1971 ex.s. c 266 § 5; 1959 c 53 § 5; 1919 c 5 § 10; RRS § 10105.]

Additional notes found at www.leg.wa.gov

18.25.075 Inactive status. (1) An individual may place his or her license on inactive status. The holder of an inactive license shall not practice chiropractic in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary pursuant to RCW 43.70.250. Failure to renew an inactive license shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with the rules established by the commission.

(4) The provisions relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [1994 sp.s. c 9 § 115; 1991 c 3 § 41; 1989 c 258 § 14.]

18.25.080 Health regulations. Chiropractic practitioners shall observe and be subject to all state and municipal regulations relating to the control of contagious and infectious diseases, sign death certificates and any and all matters pertaining to public health, reporting to the proper health officers the same as other practitioners. [1919 c 5 § 12; RRS § 10107.]

18.25.090 Use of credentials in written materials—Treatment by prayer not regulated. On all cards, books, papers, signs or other written or printed means of giving information to the public, used by those licensed by this chapter to practice chiropractic, the practitioner shall use after or below his or her name the term chiropractor, chiropractic physician, D.C., or D.C.Ph.C., designating his or her line of drugless practice, and shall not use the letters M.D. or D.O.: PROVIDED, That the word doctor or "Dr." or physician may be used only in conjunction with the word "chiropractic" or "chiropractor". Nothing in this chapter shall be held to apply to or to regulate any kind of treatment by prayer. [1991 c 320 § 9; 1989 c 258 § 6; 1986 c 259 § 24; 1981 c 277 § 3; 1971 ex.s. c 227 § 7; 1919 c 5 § 15; RRS § 10109.]

Additional notes found at www.leg.wa.gov

18.25.100 Prosecutions for violations. It shall be the duty of the several prosecuting attorneys of this state to prosecute all persons charged with the violation of any of the provisions of this chapter. It shall be the duty of the secretary to aid said attorneys of this state in the enforcement of this chapter. [1991 c 3 § 42; 1919 c 5 § 16; RRS § 10110.]

18.25.112 "Unprofessional conduct"—Additional definition—Prosecution. (1) In addition to those acts defined in chapter 18.130 RCW, the term "unprofessional conduct" as used in this chapter includes failing to differentiate chiropractic care from any and all other methods of healing at all times.

(2) Proceedings involving alleged unprofessional conduct shall be prosecuted by the attorney general upon the direction of the commission. [1994 sp.s. c 9 § 116.]

18.25.180 Employment of X-ray technicians—Rules.

(1) A chiropractor may employ a technician to operate X-ray equipment after the technician has registered with the commission.

(2) The commission may adopt rules necessary and appropriate to carry out the purposes of this section. [1994 sp.s. c 9 § 117; 1991 c 222 § 9.]

Additional notes found at www.leg.wa.gov

18.25.190 Exemptions—Jurisdiction of commission.

Nothing in this chapter shall be construed to prohibit:

(1) The temporary practice in this state of chiropractic by any chiropractor licensed by another state, territory, or country in which he or she resides. However, the chiropractor shall not establish a practice open to the general public and shall not engage in temporary practice under this section for a period longer than thirty days. The chiropractor shall register his or her intention to engage in the temporary practice of chiropractic in this state with the commission before engaging in the practice of chiropractic, and shall agree to be bound by such conditions as may be prescribed by rule by the commission.

(2) The practice of chiropractic, except the administration of a chiropractic adjustment, by a person who is a regular senior student in an accredited school of chiropractic approved by the commission if the practice is part of a regular course of instruction offered by the school and the student is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the commission.

(3) The practice of chiropractic by a person serving a period of postgraduate chiropractic training in a program of clinical chiropractic training sponsored by a school of chiropractic accredited in this state if the practice is part of his or her duties as a clinical postgraduate trainee and the trainee is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the commission.

(4) The practice of chiropractic by a person who is eligible and has applied to take the next available examination for licensing offered by the commission, except that the unlicensed chiropractor must provide all services under the direct control and supervision of a licensed chiropractor approved by the commission. The unlicensed chiropractor may continue to practice as provided by this subsection until the results of the next available examination are published, but in no case for a period longer than six months. The commission shall adopt rules necessary to effectuate the intent of this subsection.

Any provision of chiropractic services by any individual under subsection (1), (2), (3), or (4) of this section shall be subject to the jurisdiction of the commission as provided in chapter 18.130 RCW. [2000 c 171 § 8; 1994 sp.s. c 9 § 118; 1991 c 320 § 10.]

18.25.200 Service and fee limitations by health care purchasers—Pilot projects. All state health care purchasers shall have the authority to set service and fee limitations on chiropractic costs. The health care authority shall establish pilot projects in defined geographic regions of the state to

contract with organizations of chiropractors for a prepaid capitated amount. [1992 c 241 § 4.]

Intent—1992 c 241: See note following RCW 18.25.005.

18.25.210 Pilot project—Commission—Authority over budget.

(1) The commission may conduct a pilot project to evaluate the effect of granting the commission additional authority over budget development, spending, and staffing. If the commission intends to conduct a pilot project, it must provide a notice in writing to the secretary by July 1, 2013. If the commission chooses to conduct a pilot project, the pilot project shall begin on July 1, 2013, and conclude on June 30, 2018.

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

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

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

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

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

(b) Consistent with the budgeting and accounting act:

(i) With regard to budget for the remainder of the 2013-2015 biennium, the commission has authority to spend the remaining funds allocated with respect to chiropractors licensed under this chapter; and

(ii) Beginning with the 2015-2017 biennium, the commission is responsible for proposing its own biennial budget which the secretary must submit to the office of financial management;

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

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

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

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

(3) By December 15, 2017, the secretary and the commission shall report to the governor and the legislature on the results of the pilot project. The report shall:

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

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

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

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

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

(4) The secretary shall employ staff that are hired and managed by the executive director provided that nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement. [2013 c 81 § 1; 2011 c 60 § 5; 2008 c 134 § 31.]

Effective date—2013 c 81: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2013." [2013 c 81 § 9.]

Effective date—2011 c 60: See RCW 42.17A.919.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Chapter 18.27 RCW

REGISTRATION OF CONTRACTORS

Sections

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- 18.27.020 Registration required—Prohibited acts—Criminal penalty—Monitoring program.
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- 18.27.310 Infraction—Administrative hearing—Procedure—Burden of proof—Order—Appeal.
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- 18.27.390 Finding—Unregistered contractors enforcement team.
- 18.27.800 Report—2009 c 432.

Actions or claims for construction of improvements upon real property, accrual and limitations upon: RCW 4.16.300 through 4.16.320.

18.27.005 Strict enforcement. This chapter shall be strictly enforced. Therefore, the doctrine of substantial compliance shall not be used by the department in the application and construction of this chapter. Anyone engaged in the activities of a contractor is presumed to know the requirements of this chapter. [1997 c 314 § 1.]

18.27.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Contractor" includes any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, develop, move, wreck, or demolish any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith, the installation or repair of roofing or siding, performing tree removal services, or cabinet or similar installation; or, who, to do similar work upon his or her own property, employs members of more than one trade upon a single job or project or under a single building permit except as otherwise provided in this chapter.

(b) "Contractor" also includes a consultant acting as a general contractor.

(c) "Contractor" also includes any person, firm, corporation, or other entity covered by this subsection (1), whether or not registered as required under this chapter or who are otherwise required to be registered or licensed by law, who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year from the date the structure, project, development, or improvement was substantially completed or abandoned. A person, firm, corporation, or other entity is not a contractor under this subsection (1)(c) if the person, firm, corporation, or other entity contracts with a registered general contractor and does not superintend the work.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of the department of labor and industries or designated representative employed by the department.

(4) "Filing" means delivery of a document that is required to be filed with an agency to a place designated by the agency.

(5) "General contractor" means a contractor whose business operations require the use of more than one building trade or craft upon a single job or project or under a single building permit. A general contractor also includes one who superintends, or consults on, in whole or in part, work falling within the definition of a contractor.

(6) "Notice of infraction" means a form used by the department to notify contractors that an infraction under this chapter has been filed against them.

(7) "Partnership" means a business formed under Title 25 RCW.

(8) "Registration cancellation" means a written notice from the department that a contractor's action is in violation of this chapter and that the contractor's registration has been revoked.

(9) "Registration suspension" means either an automatic suspension as provided in this chapter, or a written notice from the department that a contractor's action is a violation of this chapter and that the contractor's registration has been suspended for a specified time, or until the contractor shows evidence of compliance with this chapter.

(10) "Residential homeowner" means an individual person or persons owning or leasing real property:

(a) Upon which one single-family residence is to be built and in which the owner or lessee intends to reside upon completion of any construction; or

(b) Upon which there is a single-family residence to which improvements are to be made and in which the owner or lessee intends to reside upon completion of any construction.

(11) "Service," except as otherwise provided in RCW 18.27.225 and 18.27.370, means posting in the United States mail, properly addressed, postage prepaid, return receipt requested, or personal service. Service by mail is complete upon deposit in the United States mail to the last known address provided to the department.

(12) "Specialty contractor" means a contractor whose operations do not fall within the definition of "general contractor". A specialty contractor may only subcontract work that is incidental to the specialty contractor's work.

(13) "Substantial completion" means the same as "substantial completion of construction" in RCW 4.16.310.

(14) "Unregistered contractor" means a person, firm, corporation, or other entity doing work as a contractor without being registered in compliance with this chapter. "Unregistered contractor" includes contractors whose registration is expired, revoked, or suspended. "Unregistered contractor" does not include a contractor who has maintained a valid bond and the insurance or assigned account required by RCW 18.27.050, and whose registration has lapsed for thirty or fewer days.

(15) "Unsatisfied final judgment" means a judgment or final tax warrant that has not been satisfied either through payment, court approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

(16) "Verification" means the receipt and duplication by the city, town, or county of a contractor registration card that is current on its face, checking the department's contractor registration database, or calling the department to confirm that the contractor is registered. [2015 c 52 § 1; 2007 c 436 § 1; 2001 c 159 § 1; 1997 c 314 § 2; 1993 c 454 § 2; 1973 1st ex.s. c 153 § 1; 1972 ex.s. c 118 § 1; 1967 c 126 § 5; 1963 c 77 § 1.]

Finding—1993 c 454: "The legislature finds that unregistered contractors are a serious threat to the general public and are costing the state millions of dollars each year in lost revenue. To assist in solving this problem, the department of labor and industries and the department of revenue should coordinate and communicate with each other to identify unregistered contractors." [1993 c 454 § 1.]

Additional notes found at www.leg.wa.gov

18.27.020 Registration required—Prohibited acts—Criminal penalty—Monitoring program. (1) Every contractor shall register with the department.

(2) It is a gross misdemeanor for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended or revoked;

(c) Use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required;

(d) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor; or

(e) Subcontract to or use an unregistered contractor.

(3) It is not unlawful for a registered contractor to employ an unregistered contractor who was registered at the time he or she entered into a contract with the registered contractor, unless the registered contractor or his or her representative has been notified in writing by the department of labor and industries that the contractor has become unregistered.

(4) All gross misdemeanor actions under this chapter shall be prosecuted in the county where the infraction occurs.

(5) A person is guilty of a separate gross misdemeanor for each day worked if, after the person receives a citation

from the department, the person works while unregistered, or while his or her registration is suspended or revoked, or works under a registration issued to another contractor. A person is guilty of a separate gross misdemeanor for each worksite on which he or she violates subsection (2) of this section. Nothing in this subsection applies to a registered contractor.

(6) The director by rule shall establish a two-year audit and monitoring program for a contractor not registered under this chapter who becomes registered after receiving an infraction or conviction under this chapter as an unregistered contractor. The director shall notify the departments of revenue and employment security of the infractions or convictions and shall cooperate with these departments to determine whether any taxes or registration, license, or other fees or penalties are owed the state. [2007 c 436 § 2; 1997 c 314 § 3; 1993 c 454 § 6; 1987 c 362 § 1; 1986 c 197 § 1; 1983 1st ex.s. c 2 § 17; 1973 1st ex.s. c 153 § 2; 1963 c 77 § 2.]

Finding—1993 c 454: See note following RCW 18.27.010.

Violations as infractions: RCW 18.27.200.

Additional notes found at www.leg.wa.gov

18.27.030 Application for registration—Grounds for denial and suspension. (1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

- (a) Employer social security number.
- (b) Unified business identifier number.
- (c) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:
 - (i) The applicant's industrial insurance account number issued by the department;
 - (ii) The applicant's self-insurer number issued by the department; or
 - (iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law.

- (d) Employment security department number.
- (e) Unified business identifier (UBI) account number may be substituted for the information required by (c) and (d) of this subsection if the applicant will not employ employees in Washington.

(f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(g) The name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant is a corporation or the name and address of all members of other business entities. The information contained in such application is a matter of public record and open to public inspection.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(c) of this section, including but not limited to

information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3)(a) The department shall deny an application for registration if: (i) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on work performed subject to this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (ii) the applicant was an owner, principal, or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (iii) the applicant does not have a valid unified business identifier number; (iv) the department determines that the applicant has falsified information on the application, unless the error was inadvertent; or (v) the applicant does not have an active and valid certificate of registration with the department of revenue.

(b) The department shall suspend an active registration if (i) the department has determined that the registrant has an unsatisfied final judgment against it for work within the scope of this chapter; (ii) the department has determined that the registrant is a sole proprietor or an owner, principal, or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of this chapter; (iii) the registrant does not maintain a valid unified business identifier number; (iv) the department has determined that the registrant falsified information on the application, unless the error was inadvertent; or (v) the registrant does not have an active and valid certificate of registration with the department of revenue.

(c) The department may suspend an active registration if the department has determined that an owner, principal, partner, or officer of the registrant was an owner, principal, or officer of a previous partnership, corporation, or other entity that has an unsatisfied final judgment against it.

(4) The department shall not deny an application or suspend a registration because of an unsatisfied final judgment if the applicant's or registrant's unsatisfied final judgment was determined by the director to be the result of the fraud or negligence of another party. [2008 c 120 § 1; 2007 c 436 § 3; 2001 c 159 § 2; 1998 c 279 § 3; 1997 c 314 § 4; 1996 c 147 § 1; 1992 c 217 § 1; 1988 c 285 § 1. Prior: 1987 c 362 § 2; 1987 c 111 § 9; 1973 1st ex.s. c 153 § 3; 1963 c 77 § 3.]

Conflict with federal requirements—2008 c 120: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2008 c 120 § 15.]

Severability—2008 c 120: "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." [2008 c 120 § 16.]

Finding—Intent—1998 c 279: See note following RCW 51.12.120.

Additional notes found at www.leg.wa.gov

18.27.040 Bond or other security required—Actions against—Suspension of registration upon impairment.

(1) Each applicant shall file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in the sum of twelve thousand dollars if the applicant is a general contractor and six thousand dollars if the applicant is a specialty contractor. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the registration application. The bond shall have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director. A cancellation or revocation of the bond or withdrawal of the surety from the bond automatically suspends the registration issued to the contractor until a new bond or reinstatement notice has been filed and approved as provided in this section. The bond shall be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of breach of contract including improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) At the time of initial registration or renewal, the contractor shall provide a bond or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall issue or renew the contractor's certificate of registration. Any contractor registered as of July 1, 2001, who maintains that registration in accordance with this chapter is in compliance with this chapter until the next renewal of the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit against the contractor and the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon the bond or deposit brought by a residential homeowner for breach of contract by a party to the construction contract shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within two years from the date the claimed contract work was substantially completed or abandoned, whichever occurred first. Action upon the bond or deposit brought by any other authorized party shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were fur-

nished, or the claimed contract work was substantially completed or abandoned, whichever occurred first. Service of process in an action filed under this chapter against the contractor and the contractor's bond or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee adopted by rule of not less than fifty dollars to cover the costs shall be served by registered or certified mail, or other delivery service requiring notice of receipt, upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the fee and three copies of the summons and complaint. The service shall constitute service and confer personal jurisdiction on the contractor and the surety for suit on claimant's claim against the contractor and the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the contractor at the address listed in the contractor's application and to the surety within two days after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending and provided to the department as required in subsection (3) of this section, at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (a) Employee labor and claims of laborers, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Registered or licensed subcontractors, material, and equipment;
- (d) Taxes and contributions due the state of Washington;
- (e) Any court costs, interest, and attorneys' fees plaintiff may be entitled to recover. The surety is not liable for any amount in excess of the penal limit of its bond.

A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) The total amount paid from a bond or deposit required of a general contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount. The total amount paid from a bond or deposit required of a specialty contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount or four thousand dollars, whichever is greater.

(6) The prevailing party in an action filed under this section against the contractor and contractor's bond or deposit, for breach of contract by a party to the construction contract involving a residential homeowner, is entitled to costs, interest, and reasonable attorneys' fees. The surety upon the bond

or deposit is not liable in an aggregate amount in excess of the amount named in the bond or deposit nor for any monetary penalty assessed pursuant to this chapter for an infraction.

(7) If a final judgment impairs the liability of the surety upon the bond or deposit so furnished that there is not in effect a bond or deposit in the full amount prescribed in this section, the registration of the contractor is automatically suspended until the bond or deposit liability in the required amount unimpaired by unsatisfied judgment claims is furnished.

(8) In lieu of the surety bond required by this section the contractor may file with the department an assigned savings account, upon forms provided by the department.

(9) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(10) Within ten days after resolution of the case, a certified copy of the final judgment and order, or any settlement documents where a case is not disposed of by a court trial, a certified copy of the dispositive settlement documents must be provided to the department by the prevailing party. Failure to provide a copy of the final judgment and order or the dispositive settlement documents to the department within ten days of entry of such an order constitutes a violation of this chapter and a penalty adopted by rule of not less than two hundred fifty dollars may be assessed against the prevailing party.

(11) The director may require an applicant applying to renew or reinstate a registration or applying for a new registration to file a bond of up to three times the normally required amount, if the director determines that an applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had in the past five years a total of three final judgments in actions under this chapter involving a residential single-family dwelling on two or more different structures.

(12) The director may adopt rules necessary for the proper administration of the security. [2007 c 436 § 4; 2001 c 159 § 3; 1997 c 314 § 5; 1988 c 139 § 1; 1987 c 362 § 6; 1983 1st ex.s. c 2 § 18; 1977 ex.s. c 11 § 1; 1973 1st ex.s. c 153 § 4; 1972 ex.s. c 118 § 2; 1967 c 126 § 1; 1963 c 77 § 4.]

Unpaid wages by public works contractor constitute lien against bond: RCW 39.12.050.

18.27.050 Insurance or financial responsibility required—Suspension of registration upon impairment.

(1) At the time of registration and subsequent reregistration, the applicant shall furnish insurance or financial responsibility in the form of an assigned account in the amount of fifty thousand dollars for injury or damages to property, and one

hundred thousand dollars for injury or damage including death to any one person, and two hundred thousand dollars for injury or damage including death to more than one person.

(2) An expiration, cancellation, or revocation of the insurance policy or withdrawal of the insurer from the insurance policy automatically suspends the registration issued to the registrant until a new insurance policy or reinstatement notice has been filed and approved as provided in this section.

(3)(a) Proof of financial responsibility authorized in this section may be given by providing, in the amount required by subsection (1) of this section, an assigned account acceptable to the department. The assigned account shall be held by the department to satisfy any execution on a judgment issued against the contractor for damage to property or injury or death to any person occurring in the contractor's contracting operations, according to the provisions of the assigned account agreement. The department shall have no liability for payment in excess of the amount of the assigned account.

(b) The assigned account filed with the director as proof of financial responsibility shall be canceled at the expiration of three years after:

(i) The contractor's registration has expired or been revoked; or

(ii) The contractor has furnished proof of insurance as required by subsection (1) of this section;

if, in either case, no legal action has been instituted against the contractor or on the account at the expiration of the three-year period.

(c) If a contractor chooses to file an assigned account as authorized in this section, the contractor shall, on any contracting project, notify each person with whom the contractor enters into a contract or to whom the contractor submits a bid that the contractor has filed an assigned account in lieu of insurance and that recovery from the account for any claim against the contractor for property damage or personal injury or death occurring in the project requires the claimant to obtain a court judgment. [2001 c 159 § 4; 1987 c 303 § 1; 1963 c 77 § 5.]

18.27.060 Certificate of registration—Issuance, duration, renewal—Suspension—Single registration/licensing document for those qualifying as both general and electrical contractor. (1) A certificate of registration shall be valid for two years and shall be renewed on or before the expiration date. The department shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter.

(2) If the department approves an application, it shall issue a certificate of registration to the applicant.

(3) If a contractor's surety bond or other security has an unsatisfied judgment against it or is canceled, or if the contractor's insurance policy is canceled, the contractor's registration shall be automatically suspended on the effective date of the impairment or cancellation. The department shall mail notice of the suspension to the contractor's address on the certificate of registration within two days after suspension using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) Renewal of registration is valid on the date the department receives the required fee and proof of bond and liability insurance, if sent by certified mail or other means requiring proof of delivery. The receipt or proof of delivery shall serve as the contractor's proof of renewed registration until he or she receives verification from the department.

(5) The department shall immediately suspend the certificate of registration of a contractor who has been certified by the department of social and health services as a person who is not in compliance with a support order or a visitation order as provided in RCW 74.20A.320. The certificate of registration shall not be reissued or renewed unless the person provides to the department a release from the department of social and health services stating that he or she is in compliance with the order and the person has continued to meet all other requirements for certification during the suspension.

(6) For a contractor who employs plumbers, as described in RCW 18.106.010(10)(c), and is also required to be licensed as an electrical contractor as required in RCW 19.28.041, while doing pump and irrigation or domestic pump work described in rule as authorized by RCW 19.28.251, the department shall establish a single registration/licensing document for those who qualify for both general contractor registration as defined by this chapter and an electrical contractor license as defined by chapter 19.28 RCW. [2011 c 301 § 1; 2006 c 185 § 14; 2001 c 159 § 5. Prior: 1997 c 314 § 6; 1997 c 58 § 817; 1983 1st ex.s. c 2 § 19; 1977 ex.s. c 61 § 1; 1963 c 77 § 6.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.27.062 Inspection by department—Subcontractor list—Certificate of registration. A contractor must maintain and have available for inspection by the department a list of all direct subcontractors and a copy of their certificate of registration. [2009 c 432 § 1.]

18.27.065 Partnership or joint venture deemed registered, when. A partnership or joint venture shall be deemed registered under this chapter if any one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered. [1983 1st ex.s. c 2 § 16.]

Additional notes found at www.leg.wa.gov

18.27.070 Fees. The department shall charge fees for issuance, renewal, and reinstatement of certificates of registration; and changes of name, address, or business structure. The department shall set the fees by rule.

The entire amount of the fees are to be used solely to cover the full cost of issuing certificates, filing papers and notices, and administering and enforcing this chapter. The costs shall include reproduction, travel, per diem, and administrative and legal support costs. [1997 c 314 § 7; 1983 c 74 § 1; 1977 ex.s. c 66 § 1; 1973 1st ex.s. c 153 § 5; 1967 c 126 § 2; 1963 c 77 § 7.]

Additional notes found at www.leg.wa.gov

18.27.075 Fees for issuing or renewing certificate of registration. The department shall charge a fee of one hundred dollars for issuing or renewing a certificate of registration during the 2001-2003 biennium. The department shall revise this amount at least once every two years for the purpose of recognizing economic changes as reflected by the fiscal growth factor under chapter 43.135 RCW. [2001 c 159 § 14; 1983 c 74 § 2.]

18.27.080 Registration prerequisite to suit. No person engaged in the business or acting in the capacity of a contractor may bring or maintain any action in any court of this state for the collection of compensation for the performance of any work or for breach of any contract for which registration is required under this chapter without alleging and proving that he or she was a duly registered contractor and held a current and valid certificate of registration at the time he or she contracted for the performance of such work or entered into such contract. For the purposes of this section, the court shall not find a contractor in substantial compliance with the registration requirements of this chapter unless: (1) The department has on file the information required by RCW 18.27.030; (2) the contractor has at all times had in force a current bond or other security as required by RCW 18.27.040; and (3) the contractor has at all times had in force current insurance as required by RCW 18.27.050. In determining under this section whether a contractor is in substantial compliance with the registration requirements of this chapter, the court shall take into consideration the length of time during which the contractor did not hold a valid certificate of registration. [2011 c 336 § 474; 2007 c 436 § 5; 1988 c 285 § 2; 1972 ex.s. c 118 § 3; 1963 c 77 § 8.]

18.27.090 Exemptions. The registration provisions of this chapter do not apply to:

(1) An authorized representative of the United States government, the state of Washington, or any incorporated city, town, county, township, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state;

(2) Officers of a court when they are acting within the scope of their office;

(3) Public utilities operating under the regulations of the utilities and transportation commission in construction, maintenance, or development work incidental to their own business;

(4) Any construction, repair, or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other operation of any petroleum or gas well or any surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) The sale of any finished products, materials, or articles of merchandise that are not fabricated into and do not become a part of a structure under the common law of fixtures;

(6) Any construction, alteration, improvement, or repair of personal property performed by the registered or legal owner, or by a mobile/manufactured home retail dealer or manufacturer licensed under chapter 46.70 RCW who shall warranty service and repairs under chapter 46.70 RCW;

(7) Any construction, alteration, improvement, or repair carried on within the limits and boundaries of any site or reservation under the legal jurisdiction of the federal government;

(8) Any person who only furnished materials, supplies, or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) Any work or operation on one undertaking or project by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than five hundred dollars, such work or operations being considered as of a casual, minor, or inconsequential nature. The exemption prescribed in this subsection does not apply in any instance wherein the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made into contracts of amounts less than five hundred dollars for the purpose of evasion of this chapter or otherwise. The exemption prescribed in this subsection does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor, or that he or she is qualified to engage in the business of contractor;

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts or reclamation districts; or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising; or to clearing or other work upon land in rural districts for fire prevention purposes; except when any of the above work is performed by a registered contractor;

(11) An owner who contracts for a project with a registered contractor, except that this exemption shall not deprive the owner of the protections of this chapter against registered and unregistered contractors. The exemption prescribed in this subsection does not apply to a person who performs the activities of a contractor for the purpose of leasing or selling improved property he or she has owned for less than twelve months;

(12) Any person working on his or her own property, whether occupied by him or her or not, and any person working on his or her personal residence, whether owned by him or her or not but this exemption shall not apply to any person who performs the activities of a contractor on his or her own property for the purpose of selling, demolishing, or leasing the property;

(13) An owner who performs maintenance, repair, and alteration work in or upon his or her own properties, or who uses his or her own employees to do such work;

(14) A licensed architect or civil or professional engineer acting solely in his or her professional capacity, an electrician certified under the laws of the state of Washington, or a plumber certified under the laws of the state of Washington or licensed by a political subdivision of the state of Washington while operating within the boundaries of such political subdivision. The exemption provided in this subsection is applicable only when the person certified is operating within the scope of his or her certification;

(15) Any person who engages in the activities herein regulated as an employee of a registered contractor with wages

as his or her sole compensation or as an employee with wages as his or her sole compensation;

(16) Contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance work;

(17) A mobile/manufactured home dealer or manufacturer who subcontracts the installation, set-up, or repair work to actively registered contractors. This exemption only applies to the installation, set-up, or repair of the mobile/manufactured homes that were manufactured or sold by the mobile/manufactured home dealer or manufacturer;

(18) An entity who holds a valid electrical contractor's license under chapter 19.28 RCW that employs a certified journey level electrician, a certified residential specialty electrician, or an electrical trainee meeting the requirements of chapter 19.28 RCW to perform plumbing work that is incidentally, directly, and immediately appropriate to the like-kind replacement of a household appliance or other small household utilization equipment that requires limited electric power and limited waste and/or water connections. An electrical trainee must be supervised by a certified electrician while performing plumbing work. [2013 c 23 § 13; 2007 c 436 § 6; 2003 c 399 § 401; 2001 c 159 § 7; 1997 c 314 § 8; 1987 c 313 § 1; 1983 c 4 § 1; 1980 c 68 § 2; 1974 ex.s. c 25 § 2. Prior: 1973 1st ex.s. c 161 § 1; 1973 1st ex.s. c 153 § 6; 1967 c 126 § 3; 1965 ex.s. c 170 § 50; 1963 c 77 § 9.]

Additional notes found at www.leg.wa.gov

18.27.100 Business practices—Advertising—Penalty. (1) Except as provided in RCW 18.27.065 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity, of a contractor under any other name unless such name also is registered under this chapter.

(2) All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents which show a contractor's name or address shall show the contractor's name or address as registered under this chapter.

(3)(a) All advertising that shows the contractor's name or address shall show the contractor's current registration number. The registration number may be omitted in an alphabetized listing of registered contractors stating only the name, address, and telephone number: PROVIDED, That signs on motor vehicles subject to RCW 46.16A.030 and on-premise [on-premises] signs shall not constitute advertising as provided in this section. All materials used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. A contractor shall not use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required. Advertising by airwave transmission shall not be subject to this subsection (3)(a).

(b) The director may issue a subpoena to any person or entity selling any advertising subject to this section for the name, address, and telephone number provided to the seller of the advertising by the purchaser of the advertising. The subpoena must have enclosed a stamped, self-addressed envelope and blank form to be filled out by the seller of the advertising. If the seller of the advertising has the information

on file, the seller shall, within a reasonable time, return the completed form to the department. The subpoena must be issued no more than two days after the expiration of the issue or publication containing the advertising or after the broadcast of the advertising. The good-faith compliance by a seller of advertising with a written request of the department for information concerning the purchaser of advertising shall constitute a complete defense to any civil or criminal action brought against the seller of advertising arising from such compliance. Advertising by airwave or electronic transmission is subject to this subsection (3)(b).

(4) No contractor shall advertise that he or she is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter.

(5) A contractor shall not falsify a registration number and use it, or use an expired registration number, in connection with any solicitation or identification as a contractor. All individual contractors and all partners, associates, agents, salespersons, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto.

(6) Any advertising by a person, firm, or corporation soliciting work as a contractor when that person, firm, or corporation is not registered pursuant to this chapter is a violation of this chapter.

(7) An applicant or registrant who falsifies information on an application for registration commits a violation under this section.

(8)(a) The finding of a violation of this section by the director at a hearing held in accordance with the Administrative Procedure Act, chapter 34.05 RCW, shall subject the person committing the violation to a penalty of not more than ten thousand dollars as determined by the director.

(b) Penalties under this section shall not apply to a violation determined to be an inadvertent error. [2011 c 336 § 475; 2011 c 171 § 4; 2008 c 120 § 2; 2001 c 159 § 8; 1997 c 314 § 9; 1996 c 147 § 2; 1993 c 454 § 3; 1990 c 46 § 1; 1987 c 362 § 3; 1980 c 68 § 1; 1979 ex.s. c 116 § 1; 1963 c 77 § 10.]

Reviser's note: This section was amended by 2011 c 171 § 4 and by 2011 c 336 § 475, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Conflict with federal requirements—Severability—2008 c 120: See notes following RCW 18.27.030.

Finding—1993 c 454: See note following RCW 18.27.010.

Additional notes found at www.leg.wa.gov

18.27.102 Unlawful advertising—Liability. When determining a violation of RCW 18.27.100, the director and administrative law judge shall hold responsible the person who purchased or offered to purchase the advertising. [1993 c 454 § 4; 1987 c 362 § 4.]

Finding—1993 c 454: See note following RCW 18.27.010.

18.27.104 Unlawful advertising—Citations. (1) If, upon investigation, the director or the director's designee has probable cause to believe that a person holding a registration, an applicant for registration, or a person acting in the capacity

of a contractor who is not otherwise exempted from this chapter, has violated RCW 18.27.100 by unlawfully advertising for work covered by this chapter, the department may issue a citation containing an order of correction. Such order shall require the violator to cease the unlawful advertising.

(2) If the person to whom a citation is issued under subsection (1) of this section notifies the department in writing that he or she contests the citation, the department shall afford an opportunity for an adjudicative proceeding under chapter 34.05 RCW. [2007 c 436 § 7; 1997 c 314 § 10; 1989 c 175 § 61; 1987 c 362 § 5.]

Additional notes found at www.leg.wa.gov

18.27.110 Building permits—Verification of registration required—Responsibilities of issuing entity—Penalties.

(1) No city, town or county shall issue a construction building permit for work which is to be done by any contractor required to be registered under this chapter without verification that such contractor is currently registered as required by law. When such verification is made, nothing contained in this section is intended to be, nor shall be construed to create, or form the basis for any liability under this chapter on the part of any city, town or county, or its officers, employees or agents. However, failure to verify the contractor registration number results in liability to the city, town, or county to a penalty to be imposed according to *RCW 18.27.100(7)(a).

(2) At the time of issuing the building permit, all cities, towns, or counties are responsible for:

(a) Printing the contractor registration number on the building permit; and

(b) Providing a written notice to the building permit applicant informing them of contractor registration laws and the potential risk and monetary liability to the homeowner for using an unregistered contractor.

(3) If a building permit is obtained by an applicant or contractor who falsifies information to obtain an exemption provided under RCW 18.27.090, the building permit shall be forfeited. [1997 c 314 § 11; 1993 c 454 § 5; 1986 c 197 § 14; 1967 c 126 § 4.]

***Reviser's note:** RCW 18.27.100 was amended by 2008 c 120 § 2, changing subsection (7)(a) to subsection (8)(a).

Finding—1993 c 454: See note following RCW 18.27.010.

18.27.111 Public works, contracts with unregistered contractors prohibited. See RCW 39.06.010.

18.27.114 Disclosure statement required—Prerequisite to lien claim.

(1) Any contractor agreeing to perform any contracting project: (a) For the repair, alteration, or construction of four or fewer residential units or accessory structures on such residential property when the bid or contract price totals one thousand dollars or more; or (b) for the repair, alteration, or construction of a commercial building when the bid or contract price totals one thousand dollars or more but less than sixty thousand dollars, must provide the customer with the following disclosure statement in substantially the following form using lower case and upper case twelve-point and bold type where appropriate, prior to starting work on the project:

"NOTICE TO CUSTOMER

This contractor is registered with the state of Washington, registration no. . . . , and has posted with the state a bond or deposit of for the purpose of satisfying claims against the contractor for breach of contract including negligent or improper work in the conduct of the contractor's business. The expiration date of this contractor's registration is

THIS BOND OR DEPOSIT MIGHT NOT BE SUFFICIENT TO COVER A CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.

This bond or deposit is not for your exclusive use because it covers all work performed by this contractor. The bond or deposit is intended to pay valid claims up to that you and other customers, suppliers, subcontractors, or taxing authorities may have.

FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

YOUR PROPERTY MAY BE LIENED.

If a supplier of materials used in your construction project or an employee or subcontractor of your contractor or subcontractors is not paid, your property may be liened to force payment and you could pay twice for the same work.

FOR ADDITIONAL PROTECTION, YOU MAY REQUEST THE CONTRACTOR TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.

The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the state Department of Labor and Industries.

I have received a copy of this disclosure statement.

.....
(Signature of customer)"

(2) The contractor must retain a signed copy of the disclosure statement in his or her files for a minimum of three years, and produce a signed or electronic signature copy of the disclosure statement to the department upon request.

(3) A contractor subject to this section shall notify any consumer to whom notice is required under subsection (1) of this section if the contractor's registration has expired or is revoked or suspended by the department prior to completion or other termination of the contract with the consumer.

(4) No contractor subject to this section may bring or maintain any lien claim under chapter 60.04 RCW based on any contract to which this section applies without alleging and proving that the contractor has provided the customer with a copy of the disclosure statement as required in subsection (1) of this section.

(5) This section does not apply to contracts authorized under chapter 39.04 RCW or to contractors contracting with other contractors.

(6) Failure to comply with this section shall constitute an infraction under the provisions of this chapter.

(7) The department shall produce model disclosure statements, and public service announcements detailing the information needed to assist contractors and contractors' customers to comply under this section. As necessary, the department shall periodically update these education materials. [2007 c 436 § 8; 2001 c 159 § 9; 1997 c 314 § 12; 1988 c 182 § 1; 1987 c 419 § 1.]

Voluntary compliance with notification requirements: "Nothing in RCW 18.27.114 shall be construed to prohibit a contractor from voluntarily complying with the notification requirements of that section which take effect July 1, 1989, prior to that date." [1988 c 182 § 2.]

18.27.117 Violations relating to mobile/manufactured homes. The legislature finds that setting up and siting mobile/manufactured homes must be done properly for the health, safety, and enjoyment of the occupants. Therefore, when any of the following cause a health and safety risk to the occupants of a mobile/manufactured home, or severely hinder the use and enjoyment of the mobile/manufactured home, a violation of RCW 19.86.020 shall have occurred:

(1) The mobile/manufactured home has been improperly installed by a contractor registered under chapter 18.27 RCW, or a mobile/manufactured dealer or manufacturer licensed under chapter 46.70 RCW;

(2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW has not been fulfilled by the person or business giving the warranty; and

(3) A bonding company that issues a bond under chapter 18.27 RCW or chapter 46.70 RCW does not reasonably and professionally investigate and resolve claims made by injured parties. [1997 c 314 § 13; 1987 c 313 § 2.]

18.27.120 List of registered contractors—Availability, fee. (1) The department shall compile a list of all contractors registered under this chapter and update the list at least bimonthly. The list shall be considered as public record information and shall be available to the public upon request: PROVIDED, That the department may charge a reasonable fee under RCW 42.56.120.

(2) The department shall inform any person, firm, or corporation, if a contractor is registered, and if a contractor is bonded or insured, without charge except for a reasonable fee under RCW 42.56.120 for copies made. [2005 c 274 § 221; 1983 1st ex.s. c 2 § 20; 1973 1st ex.s. c 153 § 7; 1972 ex.s. c 118 § 5.]

Fees, generally: RCW 18.27.070.

Additional notes found at www.leg.wa.gov

18.27.125 Rules. The director shall adopt rules in compliance with chapter 34.05 RCW to effect the purposes of this chapter. [1986 c 197 § 12.]

18.27.130 Chapter exclusive—Certain authority of cities and towns not limited or abridged. The provisions of this chapter relating to the registration or licensing of any person, firm, or corporation, including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, shall be exclusive and no political subdivision of the state of Washington shall require or issue any registrations, licenses, or bonds nor charge any fee for the same or a similar purpose: PROVIDED, That nothing herein shall limit or abridge the authority of any city or town to levy and collect a general and nondiscriminatory license fee levied upon all businesses, or to levy a tax based upon gross business conducted by any firm within said city: PROVIDED, FURTHER, That nothing herein shall limit the authority of any city or town with respect to contractors not required to be registered under this chapter. [1972 ex.s. c 118 § 4.]

18.27.140 Purpose. It is the purpose of this chapter to afford protection to the public including all persons, firms, and corporations furnishing labor, materials, or equipment to a contractor from unreliable, fraudulent, financially irresponsible, or incompetent contractors. [1983 1st ex.s. c 2 § 21; 1973 1st ex.s. c 161 § 2.]

18.27.200 Violation—Infraction. (1) It is a violation of this chapter and an infraction for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended or revoked;

(c) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor;

(d) If the contractor is a contractor as defined in RCW 18.106.010, violate RCW 18.106.320; or

(e) Subcontract to, or use, an unregistered contractor.

(2) Each day that a contractor works without being registered as required by this chapter, works while the contractor's registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction. Each worksite at which a contractor works without being registered as required by this chapter, works while the contractor's registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction. [2007 c 436 § 9; 2002 c 82 § 6; 1997 c 314 § 14; 1993 c 454 § 7; 1983 1st ex.s. c 2 § 1.]

Finding—1993 c 454: See note following RCW 18.27.010.

Prohibited acts—Criminal penalties: RCW 18.27.020.

Additional notes found at www.leg.wa.gov

18.27.205 Violations or infractions—Penalties—Subject to RCW 39.12.055. A contractor found to have committed an infraction or violation under this chapter for performing work as an unregistered contractor shall, in addition to

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any penalties under this chapter, be subject to the penalties in RCW 39.12.055. [2008 c 120 § 4.]

Conflict with federal requirements—Severability—2008 c 120: See notes following RCW 18.27.030.

18.27.210 Violations—Investigations—Evidence. (1) The director shall appoint compliance inspectors to investigate alleged or apparent violations of this chapter.

(a) The director, or authorized compliance inspector, upon presentation of appropriate credentials, may inspect and investigate job sites at which a contractor had bid or presently is working to determine whether the contractor is registered in accordance with this chapter or the rules adopted under this chapter or whether there is a violation of this chapter.

(b) Upon request of the compliance inspector of the department, a contractor or an employee of the contractor shall provide information identifying the contractor.

(c) The director or the director's authorized representative may apply to a court of competent jurisdiction for a search warrant authorizing access to any job site at which a contractor is presently working. The court may, upon such an application, issue a search warrant for the purpose requested. The costs for obtaining the search warrant must be added to the penalty for a violation of this chapter if such a violation becomes final.

(2) If the employee of an unregistered contractor is cited by a compliance inspector, that employee is cited as the agent of the employer-contractor, and issuance of the infraction to the employee is notice to the employer-contractor that the contractor is in violation of this chapter. An employee who is cited by a compliance inspector shall not be liable for any of the alleged violations contained in the citation unless the employee is also the contractor. [2007 c 436 § 10; 1993 c 454 § 8; 1987 c 419 § 2; 1986 c 197 § 2; 1983 1st ex.s. c 2 § 2.]

Finding—1993 c 454: See note following RCW 18.27.010.

Additional notes found at www.leg.wa.gov

18.27.215 Authority of director—Evidence. If he or she has reason to believe there has been a violation of this chapter, the director and the director's authorized representatives may issue subpoenas to enforce the production and examination of any of the following, whether written or electronic: A listing of the contractors working on the property; contracts between the contractor and any suppliers or subcontractors; and any other information necessary to enforce this chapter. The subpoena may be issued only if a contractor fails to provide the above information when requested by the department. The superior court has the power to enforce such a subpoena by proper proceedings. This section applies to registered and unregistered contractors. [2007 c 436 § 11.]

18.27.220 Investigations—Penalty for failure to identify contractor. Wilful refusal to provide information identifying a contractor as required by RCW 18.27.210 is a misdemeanor. [1983 1st ex.s. c 2 § 12.]

Additional notes found at www.leg.wa.gov

18.27.225 Violations—Restraining orders—Injunctions. (1) If, upon inspection or investigation, the director or authorized compliance inspector reasonably believes that a contractor has failed to register in accordance with this chap-

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ter or the rules adopted under this chapter, the director shall issue an order immediately restraining further construction work at the job site by the contractor. The order shall describe the specific violation that necessitated issuance of the restraining order. The contractor or representative to whom the restraining order is directed may request a hearing before an administrative law judge, such hearing to be conducted pursuant to chapter 34.05 RCW. A request for hearing shall not stay the effect of the restraining order.

(2) In addition to and after having invoked the powers of restraint vested in the director as provided in subsection (1) of this section, the director, through the attorney general, may petition the superior court of the state of Washington to enjoin any activity in violation of this chapter. A prima facie case for issuance of an injunction shall be established by affidavits and supporting documentation demonstrating that a restraining order was served upon the contractor and that the contractor continued to work after service of the order. Upon the filing of the petition, the superior court shall have jurisdiction to grant injunctive or other appropriate relief, pending the outcome of enforcement proceedings under this chapter, or to enforce restraining orders issued by the director. If the contractor fails to comply with any court order, the director shall request the attorney general to petition the superior court for an order holding the contractor in contempt of court and for any other appropriate relief. [1987 c 419 § 3.]

18.27.230 Notice of infraction—Service. The department may issue a notice of infraction if the department reasonably believes that the contractor has committed an infraction under this chapter. A notice of infraction issued under this section shall be personally served on the contractor named in the notice by the department's compliance inspectors or service can be made using a method by which the mailing can be tracked or the delivery can be confirmed directed to the contractor named in the notice of infraction at the contractor's last known address of record. If the contractor named in the notice of infraction is a firm or corporation, the notice may be personally served on any employee of the firm or corporation. If a notice of infraction is personally served upon an employee of a firm or corporation, the department shall send a copy of the notice using a method by which the mailing can be tracked or the delivery can be confirmed to the contractor if the department is able to obtain the contractor's address. [2011 c 301 § 2; 2007 c 436 § 12; 1997 c 314 § 15; 1993 c 454 § 9; 1986 c 197 § 3; 1983 1st ex.s. c 2 § 3.]

Finding—1993 c 454: See note following RCW 18.27.010.

Additional notes found at www.leg.wa.gov

18.27.240 Notice—Contents. The form of the notice of infraction issued under this chapter shall include the following:

(1) A statement that the notice represents a determination that the infraction has been committed by the contractor named in the notice and that the determination shall be final unless contested as provided in this chapter;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the violation which necessitated issuance of the infraction;

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(4) A statement of penalty involved if the infraction is established;

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(6) A statement that at any hearing to contest the notice of infraction the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the contractor may subpoena witnesses, including the compliance inspector of the department who issued and served the notice of infraction;

(7) A statement that at any hearing to contest the notice of infraction against an unregistered contractor, the unregistered contractor has the burden of proving that the infraction did not occur;

(8) A statement that the contractor must respond to the notice of infraction in one of the ways provided in this chapter; and

(9) A statement that a contractor's failure to timely select one of the options for responding to the notice of infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options is guilty of a gross misdemeanor and may be punished by a fine or imprisonment in jail. [2007 c 436 § 13; 2006 c 270 § 8; 1986 c 197 § 4; 1983 1st ex.s. c 2 § 5.]

Additional notes found at www.leg.wa.gov

18.27.250 Notice—Filing—Administrative hearing—Appeal. A violation designated as an infraction under this chapter shall be heard and determined by an administrative law judge of the office of administrative hearings. If a party desires to contest the notice of infraction, the party shall file a notice of appeal with the department specifying the grounds of the appeal within thirty days of service of the infraction in a manner provided by this chapter. The appeal must be accompanied by a certified check for two hundred dollars or ten percent of the penalty amount, whichever is less, but in no event less than one hundred dollars, which shall be returned to the assessed party if the decision of the department is not sustained following the final decision in the appeal. If the final decision sustains the decision of the department, the department must apply the amount of the check to the payment of the expenses of the appeal, including costs charged by the office of administrative hearings. The administrative law judge shall conduct hearings in these cases at locations in the county where the infraction occurred. [2014 c 190 § 1; 2011 c 15 § 1; 2007 c 436 § 14; 1986 c 197 § 5; 1983 1st ex.s. c 2 § 4.]

Effective date—2014 c 190: See note following RCW 19.28.131.

Additional notes found at www.leg.wa.gov

18.27.260 Notice—Determination infraction committed. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the contractor to whom the notice was issued committed the infraction. [1983 1st ex.s. c 2 § 6.]

Additional notes found at www.leg.wa.gov

18.27.270 Notice—Response—Failure to respond, appear, pay penalties, or register. (1) A contractor who is issued a notice of infraction shall respond within thirty days of the date of issuance of the notice of infraction.

(2) If the contractor named in the notice of infraction does not elect to contest the notice of infraction, then the contractor shall pay to the department, by check or money order, the amount of the penalty prescribed for the infraction. When a response which does not contest the notice of infraction is received by the department with the appropriate penalty, the department shall make the appropriate entry in its records.

(3) If the contractor named in the notice of infraction elects to contest the notice of infraction, the contractor shall respond by filing an appeal to the department in the manner specified in RCW 18.27.250.

(4) If any contractor issued a notice of infraction fails to respond within the prescribed response period, the contractor shall be guilty of a misdemeanor and prosecuted in the county where the infraction occurred.

(5) After final determination by an administrative law judge that an infraction has been committed, a contractor who fails to pay a monetary penalty within thirty days, that is not waived pursuant to RCW 18.27.340(2), and who fails to file an appeal pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.

(6) A contractor who fails to pay a monetary penalty within thirty days after exhausting appellate remedies pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.

(7) If a contractor who is issued a notice of infraction is a contractor who has failed to register as a contractor under this chapter, the contractor is subject to a monetary penalty per infraction as provided in the schedule of penalties established by the department, and each day the person works without becoming registered is a separate infraction. [2011 c 15 § 2; 2007 c 436 § 15; 2000 c 171 § 9; 1997 c 314 § 16; 1986 c 197 § 6; 1983 1st ex.s. c 2 § 7.]

Additional notes found at www.leg.wa.gov

18.27.290 Notice—Penalty for contractor failing to respond. It is a gross misdemeanor for a contractor who has been personally served with a notice of infraction to willfully fail to respond to a notice of infraction as provided in this chapter, regardless of the ultimate disposition of the infraction. [2007 c 436 § 16; 1983 1st ex.s. c 2 § 11.]

Additional notes found at www.leg.wa.gov

18.27.300 Representation by attorney, attorney general. A contractor subject to proceedings under this chapter may appear or be represented by counsel. The department shall be represented by the attorney general in administrative proceedings and any subsequent appeals under this chapter. [1986 c 197 § 7; 1983 1st ex.s. c 2 § 8.]

Additional notes found at www.leg.wa.gov

18.27.310 Infraction—Administrative hearing—Procedure—Burden of proof—Order—Appeal. (1) The administrative law judge shall conduct contractors' notice of infraction cases pursuant to chapter 34.05 RCW.

(2) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence, unless the infraction is issued against an unregistered contractor in which case the burden of proof is on the contractor. The notice of infraction shall be dismissed if the appellant establishes that, at the time the advertising occurred, offer or bid was made, or work was performed, the appellant was registered by the department, without suspension, or was exempt from registration.

(3) After consideration of the evidence and argument, the administrative law judge shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the record of the proceedings. If it has been established that the infraction was committed, the administrative law judge shall issue findings of fact and conclusions of law in its decision and order determining whether the infraction was committed.

(4) An appeal from the administrative law judge's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure. [2007 c 436 § 17; 2001 c 159 § 10; 1993 c 454 § 10; 1986 c 197 § 8; 1983 1st ex.s. c 2 § 9.]

Finding—1993 c 454: See note following RCW 18.27.010.

Additional notes found at www.leg.wa.gov

18.27.320 Infraction—Dismissal, when. The administrative law judge shall dismiss the notice of infraction at any time upon written notification from the department that the contractor named in the notice of infraction was registered, without suspension, at the time the work was performed. [2001 c 159 § 11; 1993 c 454 § 11; 1986 c 197 § 9; 1983 1st ex.s. c 2 § 13.]

Finding—1993 c 454: See note following RCW 18.27.010.

Additional notes found at www.leg.wa.gov

18.27.340 Infraction—Monetary penalty. (1) Except as otherwise provided in subsection (3) of this section, a contractor found to have committed an infraction under RCW 18.27.200 shall be assessed a monetary penalty of not less than two hundred dollars and not more than five thousand dollars.

(2) The director may waive collection in favor of payment of restitution to a consumer complainant.

(3) A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than one thousand dollars, nor more than five thousand dollars. The director may reduce the penalty for failure to register, but in no case below five hundred dollars, if the person becomes registered within ten days of receiving a notice of infraction and the notice of infraction is for a first offense.

(4) Monetary penalties collected under this chapter shall be deposited in the general fund. [1997 c 314 § 17; 1986 c 197 § 10; 1983 1st ex.s. c 2 § 15.]

Additional notes found at www.leg.wa.gov

18.27.350 Violations—Consumer Protection Act.

The consumers of this state have a right to be protected from unfair or deceptive acts or practices when they enter into contracts with contractors. The fact that a contractor is found to have committed a misdemeanor or infraction under this chapter shall be deemed to affect the public interest and shall constitute a violation of chapter 19.86 RCW. The surety bond shall not be liable for monetary penalties or violations of chapter 19.86 RCW. [1986 c 197 § 11.]

18.27.360 Certificate of registration suspension—Nonpayment or default on educational loan or scholarship.

The director shall suspend the certificate of registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification of registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 7.]

Additional notes found at www.leg.wa.gov

18.27.370 Notices of infraction—Filing—Warrant—Notice and order, withhold property—Service—Civil penalties.

(1) A notice of infraction issued under this chapter constitutes a notice of assessment for purposes of this section.

(2) A notice of infraction becomes final thirty days from the date it is served upon the contractor unless a timely appeal of the infraction is received as provided in RCW 18.27.270.

(3) When a notice of infraction becomes final, the director or the director's designee may file with the clerk of any county within the state, a warrant in the amount of the notice of infraction, plus interest, penalties, and a filing fee of twenty dollars. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the contractor mentioned in the warrant, the amount of payment, penalty, fine due on it, or filing fee, and the date when the warrant was filed. The aggregate amount of the warrant as docketed shall become a lien upon the title to, and interest in, all real and personal property of the contractor against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of the clerk. The sheriff shall proceed upon the warrant in all respects and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in a court of competent jurisdiction. The warrant so docketed is sufficient to support the issuance of writs of garnishment in favor of the state in a manner provided by law in case of judgment, wholly or par-

tially unsatisfied. The clerk of the court is entitled to a filing fee which will be added to the amount of the warrant. A copy of the warrant shall be mailed to the contractor within three days of filing with the clerk.

(4) The director or the director's designee may issue to any person, firm, corporation, other entity, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind whatsoever when he or she has reason to believe that there is in the possession of the person, firm, corporation, other entity, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is or will become due, owing, or belonging to a contractor upon whom a notice of infraction has been served by the department for payments, penalties, or fines due to the department. The effect of a notice and order is continuous from the date the notice and order is first made until the liability out of which the notice and order arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order when the liability out of which the notice and order arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order was made that the notice and order has been released.

The notice and order to withhold and deliver must be served by the sheriff of the county or by the sheriff's deputy, using a method by which the mailing can be tracked or the delivery can be confirmed, or by an authorized representative of the director. A person, firm, corporation, other entity, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order. Upon service of the notice and order, if the party served possesses any property that may be subject to the claim of the department, the party shall promptly deliver the property to the director or the director's authorized representative. The director shall hold the property in trust for application on the contractor's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review. In the alternative, the party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. If a party served and named in the notice fails to answer the notice within the time prescribed in this section, the court may render judgment by default against the party for the full amount claimed by the director in the notice, together with costs. If a notice and order to withhold and deliver wages is served upon a contractor upon whom a notice of infraction has been served, the contractor may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner is entitled.

(5) In addition to the procedure for collection of a payment, penalty, or fine due to the department as set forth in this section, the department may recover civil penalties imposed under this chapter in a civil action in the name of the department brought in a court of competent jurisdiction of the county where the violation is alleged to have occurred. [2011 c 301 § 3; 2011 c 15 § 3; 2001 c 159 § 6.]

Reviser's note: This section was amended by 2011 c 15 § 3 and by 2011 c 301 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

18.27.380 Consumer/contractor awareness of chapter. (1) The department shall use reasonable means, including working cooperatively with construction industry, financial institution, local government, consumer, media, and other interested organizations and individuals, to increase:

(a) Consumer awareness of the requirements of this chapter and the methods available to consumers to protect themselves against loss; and

(b) Contractor awareness of the obligations imposed on contractors by this chapter.

(2) The department shall accomplish the tasks listed in this section within existing resources, including but not limited to fees charged under RCW 18.27.075. [2001 c 159 § 12.]

18.27.385 Marketing campaign. The department shall create an expanded social marketing campaign using currently available materials and newly created materials as needed. This campaign should be aimed at consumers and warn them of the risks and potential consequences of hiring unregistered contractors or otherwise assisting in the furtherance of the underground economy. The campaign may include: Providing public service announcements and other similar materials, made available in English as well as other languages, to the media and to community groups; providing information on violations and penalties; and encouraging legitimate contractors and the public to report fraud. [2008 c 120 § 12.]

Conflict with federal requirements—Severability—2008 c 120: See notes following RCW 18.27.030.

18.27.390 Finding—Unregistered contractors enforcement team. (1) The legislature finds that it is contrary to public policy to allow unregistered contractors to continue doing business illegally.

(2) The department of labor and industries, the employment security department, and the department of revenue shall establish an unregistered contractors enforcement team. The team shall develop a written plan to coordinate the activities of the participating agencies to enforce the state's contractor registration laws and rules and other state laws and rules deemed appropriate by the team. In developing the plan, the team shall seek the input and advice of interested stakeholders who support the work of the team.

(3) The director or the director's designee shall call the initial meeting of the unregistered contractors enforcement team by September 1, 2001. The team shall complete the plan and forward it to the appropriate standing committees of the legislature and to the departments that contribute members to the team by December 1, 2001.

(4) The department of labor and industries, the employment security department, and the department of revenue shall accomplish the tasks listed in this section within existing resources, including but not limited to fees charged under RCW 18.27.075. [2001 c 159 § 13.]

18.27.800 Report—2009 c 432. The department of labor and industries, the employment security department, and the department of revenue shall coordinate and report to the appropriate committees of the legislature by December 1st of each year on the effectiveness of efforts implemented since July 1, 2008, to address the underground economy. The agencies shall use benchmarks and measures established by the institute for public policy and other measures it determines appropriate. [2009 c 432 § 13.]

Chapter 18.28 RCW DEBT ADJUSTING

Sections

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18.28.800	Nonprofit or exempt organizations—Report.
18.28.900	Saving prior contracts.

18.28.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Debt adjuster," which includes any person known as a debt pooler, debt manager, debt consolidator, debt prorater, or credit counselor, is any person engaging in or holding himself or herself out as engaging in the business of debt adjusting for compensation. The term shall not include:

(a) Attorneys-at-law, escrow agents, accountants, broker-dealers in securities, or investment advisors in securities, while performing services solely incidental to the practice of their professions;

(b) Any person, partnership, association, or corporation doing business under and as permitted by any law of this state or of the United States relating to banks, consumer finance businesses, consumer loan companies, trust companies, mutual savings banks, savings and loan associations, building and loan associations, credit unions, crop credit associations, development credit corporations, industrial development corporations, title insurance companies, insurance companies, or third-party account administrators;

(c) Persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt adjusting, perform credit services for their employer;

(d) Public officers while acting in their official capacities and persons acting under court order;

(e) Any person while performing services incidental to the dissolution, winding up or liquidation of a partnership, corporation, or other business enterprise;

(f) Nonprofit organizations dealing exclusively with debts owing from commercial enterprises to business creditors;

(g) Nonprofit organizations engaged in debt adjusting and which do not assess against the debtor a service charge in excess of fifteen dollars per month.

(2) "Debt adjusting" means the managing, counseling, settling, adjusting, prorating, or liquidating of the indebtedness of a debtor, or receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor.

(3) "Debt adjusting agency" is any partnership, corporation, or association engaging in or holding itself out as engaging in the business of debt adjusting.

(4) "Fair share" means the creditor contributions paid to nonprofit debt adjusters by the creditors whose consumers receive debt adjusting services from the nonprofit debt adjusters and pay down their debt accordingly. "Fair share" does not include grants received by nonprofit debt adjusters for services unrelated to debt adjusting.

(5) "Financial institution" means any person doing business under the laws of any state or the United States relating to commercial banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions.

(6) "Third-party account administrator" means an independent entity that holds or administers a dedicated bank account for fees and payments to creditors, debt collectors, debt adjusters, or debt adjusting agencies in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt. [2015 c 167 § 1. Prior: 2012 c 56 § 1; 1999 c 151 § 101; 1979 c 156 § 1; 1970 ex.s. c 97 § 1; 1967 c 201 § 1.]

Information—Report—2012 c 56: See note following RCW 19.230.350.

Additional notes found at www.leg.wa.gov

18.28.080 Fees for debt adjusting services—Limitations—Requirements. (1) By contract a debt adjuster may charge a reasonable fee for debt adjusting services. The total fee for debt adjusting services, including, but not limited to, any fee charged by a financial institution or a third-party account administrator, may not exceed fifteen percent of the total debt listed by the debtor on the contract. The fee retained by the debt adjuster from any one payment made by or on behalf of the debtor may not exceed fifteen percent of the payment not including fair share contributions to a nonprofit debt adjuster. The debt adjuster may make an initial charge of up to twenty-five dollars which shall be considered part of the total fee. If an initial charge is made, no additional fee may be retained which will bring the total fee retained to date to more than fifteen percent of the total payments made to date. No fee whatsoever shall be applied against rent and utility payments for housing.

In the event of cancellation or default on performance of the contract by the debtor prior to its successful completion, the debt adjuster may collect in addition to fees previously received, six percent of that portion of the remaining indebtedness listed on said contract which was due when the contract was entered into, but not to exceed twenty-five dollars.

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(2) A debt adjuster shall not be entitled to retain any fee until notifying all creditors listed by the debtor that the debtor has engaged the debt adjuster in a program of debt adjusting.

(3) The department of financial institutions has authority to enforce compliance with this section. [2015 c 167 § 2; 2012 c 56 § 2; 1999 c 151 § 102; 1979 c 156 § 4; 1967 ex.s. c 141 § 2; 1967 c 201 § 8.]

Information—Report—2012 c 56: See note following RCW 19.230.350.

Additional notes found at www.leg.wa.gov

18.28.090 Excess charges—Contract void—Return of payments. If a debt adjuster contracts for, receives or makes any charge in excess of the maximums permitted by this chapter, except as the result of an accidental and bona fide error, the debt adjuster's contract with the debtor shall be void and the debt adjuster shall return to the debtor the amount of all payments received from the debtor or on the debtor's behalf and not distributed to creditors. [1999 c 151 § 103; 1967 c 201 § 9.]

Additional notes found at www.leg.wa.gov

18.28.100 Contract requirements. Every contract between a debt adjuster and a debtor shall:

(1) List every debt to be handled with the creditor's name and disclose the approximate total of all known debts;

(2) Provide in precise terms payments reasonably within the ability of the debtor to pay;

(3) Disclose in precise terms the rate and amount of all of the debt adjuster's charges and fees;

(4) Disclose the approximate number and amount of installments required to pay the debts in full;

(5) Disclose the name and address of the debt adjuster and of the debtor;

(6) Provide that the debt adjuster shall notify the debtor, in writing, within five days of notification to the debt adjuster by a creditor that the creditor refuses to accept payment pursuant to the contract between the debt adjuster and the debtor;

(7) Contain the following notice in ten point boldface type or larger directly above the space reserved in the contract for the signature of the buyer: NOTICE TO DEBTOR:

(a) Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank.

(b) You are entitled to a copy of this contract at the time you sign it.

(c) You may cancel this contract within three days of signing by sending notice of cancellation by certified mail return receipt requested to the debt adjuster at his or her address shown on the contract, which notice shall be posted not later than midnight of the third day (excluding Sundays and holidays) following your signing of the contract; and

(8) Contain such other and further provisions or disclosures as are necessary for the protection of the debtor and the proper conduct of business by the debt adjuster. [1999 c 151 § 104; 1979 c 156 § 5; 1967 c 201 § 10.]

Additional notes found at www.leg.wa.gov

18.28.110 Debt adjuster—Functions required to be performed. Every debt adjuster shall perform the following functions:

(1) Make a permanent record of all payments by debtors, or on the debtors' behalf, and of all disbursements to creditors of such debtors, and shall keep and maintain in this state all such records, and all payments not distributed to creditors. No person shall intentionally make any false entry in any such record, or intentionally mutilate, destroy or otherwise dispose of any such record. Such records shall at all times be open for inspection by the attorney general or the attorney general's authorized agent, and shall be preserved as original records or by microfilm or other methods of duplication for at least six years after making the final entry therein.

(2) Deliver a completed copy of the contract between the debt adjuster and a debtor to the debtor immediately after the debtor executes the contract, and sign the debtor's copy of such contract.

(3) Unless paid by check or money order, deliver a receipt to a debtor for each payment within five days after receipt of such payment.

(4) Distribute to the creditors of the debtor at least once each forty days after receipt of payment during the term of the contract at least eighty-five percent of each payment received from the debtor.

(5) At least once every month render an accounting to the debtor which shall indicate the total amount received from or on behalf of the debtor, the total amount paid to each creditor, the total amount which any creditor has agreed to accept as payment in full on any debt owed the creditor by the debtor, the amount of charges deducted, and any amount held in trust. The debt adjuster shall in addition render such an account to a debtor within ten days after written demand.

(6) Notify the debtor, in writing, within five days of notification to the debt adjuster by a creditor that the creditor refuses to accept payment pursuant to the contract between the debt adjuster and the debtor. [1999 c 151 § 105; 1979 c 156 § 6; 1967 c 201 § 11.]

Additional notes found at www.leg.wa.gov

18.28.120 Debt adjuster—Prohibited acts. A debt adjuster shall not:

(1) Take any contract, or other instrument which has any blank spaces when signed by the debtor;

(2) Receive or charge any fee in the form of a promissory note or other promise to pay or receive or accept any mortgage or other security for any fee, whether as to real or personal property;

(3) Lend money or credit;

(4) Take any confession of judgment or power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceedings;

(5) Take, concurrent with the signing of the contract or as a part of the contract or as part of the application for the contract, a release of any obligation to be performed on the part of the debt adjuster;

(6) Advertise services, display, distribute, broadcast or televise, or permit services to be displayed, advertised, distributed, broadcasted or televised in any manner whatsoever wherein any false, misleading or deceptive statement or representation with regard to the services to be performed by the debt adjuster, or the charges to be made therefor, is made;

(7) Offer, pay, or give any cash, fee, gift, bonus, premiums, reward, or other compensation to any person for referring any prospective customer to the debt adjuster;

(8) Receive any cash, fee, gift, bonus, premium, reward, or other compensation, other than fair share contributions to a nonprofit debt adjuster, from any person other than the debtor or a person in the debtor's behalf in connection with his or her activities as a debt adjuster; or

(9) Disclose to anyone the debtors who have contracted with the debt adjuster; nor shall the debt adjuster disclose the creditors of a debtor to anyone other than: (a) The debtor; or (b) another creditor of the debtor and then only to the extent necessary to secure the cooperation of such a creditor in a debt adjusting plan. [2015 c 167 § 3; 1999 c 151 § 106; 1967 c 201 § 12.]

Additional notes found at www.leg.wa.gov

18.28.130 Legal services—Rendering or obtaining—Using name of attorney—Prohibited. Without limiting the generality of the foregoing and other applicable laws, the debt adjuster, manager or an employee of the debt adjuster shall not:

(1) Prepare, advise, or sign a release of attachment or garnishment, stipulation, affidavit for exemption, compromise agreement or other legal or court document, nor furnish legal advice or perform legal services of any kind;

(2) Represent that he or she is authorized or competent to furnish legal advice or perform legal services;

(3) Assume authority on behalf of creditors or a debtor or accept a power of attorney authorizing it to employ or terminate the services of any attorney or to arrange the terms of or compensate for such services; or

(4) Communicate with the debtor or creditor or any other person in the name of any attorney or upon the stationery of any attorney or prepare any form or instrument which only attorneys are authorized to prepare. [1999 c 151 § 107; 1967 c 201 § 13.]

Additional notes found at www.leg.wa.gov

18.28.140 Assignment of wages not prohibited. Nothing in this chapter shall be construed as prohibiting the assignment of wages by a debtor to a debt adjuster, if such assignment is otherwise in accordance with the law of this state. [1999 c 151 § 108; 1967 c 201 § 14.]

Additional notes found at www.leg.wa.gov

18.28.150 Trust account for payments by debtor—Disbursements. (1) Any payment received by a debt adjuster from or on behalf of a debtor shall be held in trust by the debt adjuster from the moment it is received. The debt adjuster shall not commingle such payment with the debt adjuster's own property or funds, but shall maintain a separate trust account and deposit in such account all such payments received. All disbursements whether to the debtor or to the creditors of the debtor, or to the debt adjuster, shall be made from such account.

(2) In the event that the debtor cancels or defaults on the contract between the debtor and the debt adjuster, the debt adjuster shall close out the debtor's trust account in the following manner:

(a) The debt adjuster may take from the account that amount necessary to satisfy any fees, other than any cancellation or default fee, authorized by this chapter.

(b) After deducting the fees provided in subsection (2)(a) of this section, the debt adjuster shall distribute the remaining amount in the account to the creditors of the debtor. The distribution shall be made within five days of the demand therefor by the debtor, but if the debtor fails to make the demand, then the debt adjuster shall make the distribution within thirty days of the date of cancellation or default. [1999 c 151 § 109; 1979 c 156 § 8; 1967 c 201 § 15.]

Additional notes found at www.leg.wa.gov

18.28.165 Investigations. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the office of the attorney general may at any time: Investigate the debt adjusting business and examine the books, accounts, records, and files used; have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of debt adjusters; and require the attendance of and examine under oath all persons whomsoever whose testimony might be required relative to such debt adjusting business or to the subject matter of any examination, investigation, or hearing. [1999 c 151 § 110; 1979 c 156 § 7.]

Additional notes found at www.leg.wa.gov

18.28.180 Administrative procedure act to govern administration. The administrative procedure act, chapter 34.05 RCW, shall wherever applicable herein, govern the rights, remedies, and procedures respecting the administration of this chapter. [1967 c 201 § 18.]

18.28.185 Violations—Unfair practice under chapter 19.86 RCW. A violation of this chapter constitutes an unfair or deceptive act or practice in the conduct of trade or commerce under chapter 19.86 RCW. [1979 c 156 § 10.]

Additional notes found at www.leg.wa.gov

18.28.190 Violations—Penalty. Any person who violates any provision of this chapter or aids or abets such violation, or any rule lawfully adopted under this chapter or any order made under this chapter, is guilty of a misdemeanor. [1999 c 151 § 111; 1967 c 201 § 19.]

Additional notes found at www.leg.wa.gov

18.28.200 Violations—Injunctions. Notwithstanding any other actions which may be brought under the laws of this state, the attorney general or the prosecuting attorney of any county within the state may bring an action in the name of the state against any person to restrain and prevent any violation of this chapter. [1967 c 201 § 20.]

18.28.210 Violations—Assurance of discontinuance—Effect. The attorney general may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter in the enforcement thereof from any person engaging in or who has engaged in such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his or her principal

place of business, or in the alternative, in Thurston county. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter for the purpose of securing any injunction as provided for in RCW 18.28.200: PROVIDED, That after commencement of any action by a prosecuting attorney, as provided therein, the attorney general may not accept an assurance of discontinuance without the consent of said prosecuting attorney. [2011 c 336 § 476; 1967 c 201 § 21.]

18.28.220 Violation of injunction—Civil penalty.

Any person who violates any injunction issued pursuant to this chapter shall forfeit and pay a civil penalty of not more than one thousand dollars. 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. [1967 c 201 § 22.]

18.28.800 Nonprofit or exempt organizations—Report. (1) Any nonprofit organization engaged in debt adjusting in this state or exempt from this chapter pursuant to RCW 18.28.010(1)(g) shall provide the following information to the department of financial institutions in a form prescribed by the department by June 30, 2016, and again on June 30, 2017:

(a) The number and percentage of Washington debtors for whom the debt adjuster provides or provided debt adjusting services in the previous year who became inactive in, canceled, or terminated those services without settlement of all of the debtor's debts, by year of enrollment;

(b) The total fees collected from Washington debtors during the previous year;

(c) The total fair share contributions collected from creditors of Washington debtors during the previous year;

(d) For each debtor for whom the debt adjuster provides debt adjusting services:

(i) The date of contracting;

(ii) The number of debts included in the contract between the debt adjuster and the debtor;

(iii) The principal amount of each debt at the time the contract was signed;

(iv) The source of each debtor's obligation, categorized as credit card, student loans, auto, medical, small loans under chapter 31.45 RCW, other secured debt, and other unsecured debt;

(v) Whether each debt is active, terminated, or settled;

(vi) If a debt has been settled, the settlement amount of the debt and the savings amount, calculated by subtracting the amount paid to settle the debt from the principal amount of the debt at the time the contract was signed; and

(vii) The total fees charged to the debtor and how the fees were calculated;

(e) For Washington debtors who became inactive in, canceled, or terminated debt adjuster services during the previous year, the number and percentage of debtors who, as measured by the aggregate amount of each debtor's enrolled debts:

(i) Settled zero percent of their enrolled debt;

(ii) Settled up to twenty-five percent of their enrolled debt;

(iii) Settled twenty-five percent to fifty percent of their enrolled debt;

(iv) Settled fifty-one percent to seventy-five percent of their enrolled debt;

(v) Settled seventy-six percent to ninety-nine percent of their enrolled debt;

(f) The number and percentage of Washington debtors for whom the debt adjuster provides or provided debt adjusting services in the previous three years who fully settled one hundred percent of their enrolled debt through those debt adjusting services, by year of enrollment; and

(g)(i) The nonprofit organization's form 990 submitted to the internal revenue service in the preceding year; or

(ii) A statement of previous year's base salary and other compensation of the nonprofit organization's officers, directors, trustees, and other employees and independent contractors receiving greater than one hundred fifty thousand dollars in total compensation, if the form 990 does not contain such information or if the organization did not submit a form 990 in the preceding year.

(2) The department of financial institutions shall make public and submit to the appropriate committees of the legislature a report summarizing the information received under subsection (1) of this section by December 1, 2016, and again on December 1, 2017. [2015 c 167 § 4.]

18.28.900 Saving prior contracts. The provisions of this chapter shall not invalidate or make unlawful contracts between debt adjusters and debtors executed prior to the effective date of this chapter. [1967 c 201 § 23.]

Additional notes found at www.leg.wa.gov

Chapter 18.29 RCW DENTAL HYGIENISTS

Sections

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18.29.900	Construction—1923 c 16.

Reviser's note: Powers and duties of the department of licensing and the director of licensing transferred to the department of health and the secretary of health. See RCW 43.70.220.

Dentistry: Chapter 18.32 RCW.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Rebating by practitioners of healing professions prohibited: Chapter 19.68 RCW.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.29.003 Regulation of health care professions—Criteria. See chapter 18.120 RCW.

18.29.005 "Surfaces of the teeth" defined. The term "surfaces of the teeth" as used in this chapter means the portions of the crown and root surface to which there is no periodontal membrane attached. [1969 c 47 § 6.]

18.29.011 License required. 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. [1987 c 150 § 16.]

Additional notes found at www.leg.wa.gov

18.29.021 Requirements for licensing. (1) The department shall issue a license to any applicant who, as determined by the secretary:

(a) Has successfully completed an educational program approved by the secretary. This educational program shall include coursework encompassing the subject areas within the scope of the license to practice dental hygiene in the state of Washington;

(b) Has successfully completed an examination administered or approved by the dental hygiene examining committee; and

(c) Has not engaged in unprofessional conduct or is not unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

(2) Applications for licensure must comply with administrative procedures, administrative requirements, and fees established according to RCW 43.70.250 and 43.70.280. [1996 c 191 § 10; 1995 c 198 § 4; 1991 c 3 § 46; 1989 c 202 § 1.]

18.29.045 Licensure by endorsement. An applicant holding a valid license and currently engaged in practice in another state may be granted a license without examination required by this chapter, on the payment of any required fees, if the secretary in consultation with the advisory committee determines that the other state's licensing standards are substantively equivalent to the standards in this state: **PROVIDED**, That the secretary in consultation with the advisory committee may require the applicant to: (1) File with the secretary documentation certifying the applicant is licensed to practice in another state; and (2) provide information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW and to demonstrate to the secretary a knowledge of Washington law pertaining to the practice of dental hygiene. [1991 c 3 § 47; 1989 c 202 § 29.]

18.29.050 Scope of licensee's functions—Employment—Supervision. Any person licensed as a dental hygienist in this state may remove deposits and stains from the surfaces of the teeth, may apply topical preventive or prophylactic agents, may polish and smooth restorations, may perform root planing and soft-tissue curettage, and may perform other dental operations and services delegated to them by a licensed dentist. Any person licensed as a dental hygienist in this state may apply topical anesthetic agents under the general supervision, as defined in RCW 18.260.010, of a dentist: PROVIDED HOWEVER, That licensed dental hygienists shall in no event perform the following dental operations or services:

- (1) Any surgical removal of tissue of the oral cavity;
- (2) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician, except that a hygienist may place antimicrobials pursuant to the order of a licensed dentist and under the dentist's required supervision;
- (3) Any diagnosis for treatment or treatment planning; or
- (4) The taking of any impression of the teeth or jaw, or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis, except that a dental hygienist may take an impression for any purpose that is either allowed:

(a) For a dental assistant registered under chapter 18.260 RCW; or

(b) As a delegated duty for dental hygienists pursuant to rules adopted by the dental quality assurance commission.

Such licensed dental hygienists may perform dental operations and services only under the supervision of a licensed dentist, and under such supervision may be employed by hospitals, boards of education of public or private schools, county boards, boards of health, or public or charitable institutions, or in dental offices. [2015 c 120 § 1; 2013 c 87 § 1; 2003 c 257 § 1; 1997 c 37 § 1; 1971 ex.s. c 235 § 1; 1969 c 47 § 4; 1923 c 16 § 27; RRS § 10030-27.]

18.29.053 Expanded function dental auxiliary services—Supervision. A person who holds a license under this chapter and who has met the requirements under RCW 18.260.050 and has been issued a license to practice as an expanded function dental auxiliary may perform those expanded function dental auxiliary services identified in RCW 18.260.070 under the specified supervision of a supervising dentist. [2007 c 269 § 14.]

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

18.29.056 Employment by health care facilities authorized—Limitations—Requirements for services performed in senior centers. (1)(a) Subject to RCW 18.29.230 and (e) of this subsection, dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the preceding five years may be employed, retained, or contracted by health care facilities and senior centers to perform authorized dental hygiene operations and services without dental supervision.

(b) Subject to RCW 18.29.230 and (e) of this subsection, dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the

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preceding five years may perform authorized dental hygiene operations and services without dental supervision under a lease agreement with a health care facility or senior center.

(c) Dental hygienists performing operations and services under (a) or (b) of this subsection are limited to removal of deposits and stains from the surfaces of the teeth, application of topical preventive or prophylactic agents, application of topical anesthetic 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.

(d) The performance of dental hygiene operations and services in health care facilities shall be limited to patients, students, and residents of the facilities.

(e) A dental hygienist employed, retained, or contracted to perform services under this section or otherwise performing services under a lease agreement under this section in a senior center must, before providing services:

(i) Enter into a written practice arrangement plan, approved by the department, with a dentist licensed in this state, under which the dentist will provide off-site supervision of the dental services provided. This agreement does not create an obligation for the dentist to accept referrals of patients receiving services under the program;

(ii) Collect data on the patients treated by dental hygienists under the program, including age, treatments rendered, insurance coverage, if any, and patient referral to dentists. This data must be submitted to the department of health at the end of each annual quarter, during the period of time between October 1, 2007, and October 1, 2013; and

(iii) Obtain information from the patient's primary health care provider about any health conditions of the patient that would be relevant to the provision of preventive dental care. The information may be obtained by the dental hygienist's direct contact with the provider or through a written document from the provider that the patient presents to the dental hygienist.

(f) For dental planning and dental treatment, dental hygienists shall refer patients to licensed dentists.

(2) For the purposes of this section:

(a) "Health care facilities" are limited to hospitals; nursing homes; home health agencies; group homes serving the elderly, individuals with disabilities, 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, state or federally funded community and migrant health centers, and tribal clinics.

(b) "Senior center" means a multipurpose community facility operated and maintained by a nonprofit organization or local government for the organization and provision of a combination of some of the following: Health, social, nutritional, educational services, and recreational activities for persons sixty years of age or older. [2013 c 87 § 2; 2009 c 321 § 1; 2007 c 270 § 1; 1997 c 37 § 2; 1984 c 279 § 63.]

Report—2009 c 321: "The secretary of health, in consultation with representatives of dental hygienists and dentists, shall provide a report to the appropriate committees of the legislature by December 1, 2013, that provides a summary of the information about patients receiving dental hygiene services in senior centers that is collected under RCW 18.29.056(1)(e)(ii),

and in community-based sealant programs carried out in schools under RCW 18.29.220. This report must also include the following:

(1) For patients receiving scaling and root planning [planing] in senior center practices, an evaluation of the patient's need for pain control;

(2) For community-based sealant programs in schools, the number of sealants applied; the teeth cleaning method selected for the patient; whether the patient was reevaluated at a recall appointment; and the need for reapplication of the sealant at the recall appointment; and

(3) For patients receiving treatment in either the senior center practices or the community-based sealant programs in schools, the number of referred patients that are seen by a dentist; the lessons learned from these practices; and any unintended consequences or outcomes." [2009 c 321 § 3.]

Effective date—2009 c 321: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009." [2009 c 321 § 4.]

Report—2007 c 270: "The secretary of health, in consultation with representatives of dental hygienists and dentists, shall provide a report to the appropriate committees of the legislature by December 1, 2008, that:

(1) Provides a summary of the information about patients receiving dental services in senior centers that is collected under *RCW 18.29.056(1)(c)(ii), and in community-based sealant programs carried out in schools under RCW 18.29.220, and describing the dental health outcomes, including both effects on dental health and adverse incidents, if any, related to the services these patients receive under the programs; and

(2) Makes recommendations, as appropriate, with regard to the services that could be appropriately provided by dental hygienists in senior centers and community-based sealant programs carried out in schools, and the effects on dental health of patients treated." [2007 c 270 § 4.]

***Reviser's note:** RCW 18.29.056 was amended by 2009 c 321 § 1, changing subsection (1)(c) to subsection (1)(e).

Additional notes found at www.leg.wa.gov

18.29.058 Delegated acts—Homebound patients.

(1)(a) Any person licensed in this state as a dental hygienist with two years of practical clinical experience within the preceding five years may perform delegated acts specified in (b) of this subsection on a homebound patient under the general supervision of a dentist licensed under chapter 18.32 RCW if the patient has first been examined by the supervising dentist within a time frame deemed appropriate by the supervising dentist.

(b) The acts that may be performed under (a) of this subsection are limited to the acts, specified in rule by the dental quality assurance commission, that a dental hygienist is authorized to perform under the general supervision of a dentist.

(2) Prior to performing acts under this section, the dental hygienist shall:

(a) Obtain information from the patient's primary health care provider about any health conditions of the patient that would be relevant to the provision of preventive dental care. The dental hygienist shall review and discuss any changes in health condition with the supervising dentist prior to treatment;

(b) Discuss appropriateness of care with the supervising dentist; and

(c) Obtain written consent from the supervising dentist.

(3) For purposes of this section:

(a) "General supervision" has the same meaning as in RCW 18.260.010; and

(b) "Homebound patient" means a patient incapable of travel due to age or disability. [2013 c 87 § 3.]

18.29.060 License issuance—Display. Upon passing an examination and meeting the requirements as provided in

RCW 18.29.021, the secretary of health shall issue to the successful applicant a license as dental hygienist. The license shall be displayed in a conspicuous place in the operation room where such licensee shall practice. [1991 c 3 § 48; 1989 c 202 § 12; 1985 c 7 § 21; 1981 c 277 § 4; 1979 c 158 § 32; 1923 c 16 § 31; RRS § 10030-31.]

18.29.071 Renewals. The secretary shall establish the administrative procedures, administrative requirements, and fees for renewal of licenses as provided in this chapter and in RCW 43.70.250 and 43.70.280. [1996 c 191 § 11; 1991 c 3 § 49; 1989 c 202 § 2.]

18.29.076 Application of uniform disciplinary act. 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. [1987 c 150 § 15; 1986 c 259 § 31.]

Additional notes found at www.leg.wa.gov

18.29.100 Violations—Penalty—Prosecutions. Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor. 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 or her county. The attorney general may assist in such prosecutions and shall appear at all hearings when requested to do so by the secretary of health. [1991 c 3 § 50; 1979 c 158 § 34; 1923 c 16 § 36; RRS § 10030-36.]

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

18.29.110 Dental hygiene examining committee—Generally. There shall be a dental hygiene examining committee consisting of three practicing dental hygienists and one public member appointed by the secretary, to be known as the Washington dental hygiene examining committee. Each dental hygiene member shall be licensed and have been actively practicing dental hygiene for a period of not less than five years immediately before appointment and shall not be connected with any dental hygiene school. The public member shall not be connected with any dental hygiene program or engaged in any practice or business related to dental hygiene. Members of the committee shall be appointed by the secretary to prepare and conduct examinations for dental hygiene licensure. Members shall be appointed to serve for terms of three years from October 1 of the year in which they are appointed. Terms of the members shall be staggered. Each member shall hold office for the term of his or her appointment and until his or her successor is appointed and qualified. Any member of the committee may be removed by the secretary for neglect of duty, misconduct, malfeasance, or misfeasance in office, after being given a written statement of the charges against him or her and sufficient opportunity to be heard thereon. Members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1991 c 3 § 51; 1989 c 202 § 3.]

18.29.120 Examinations—Secretary's authority—Consultation with examining authority. The secretary in consultation with the Washington dental hygiene examining committee shall:

- (1) Adopt rules in accordance with chapter 34.05 RCW necessary to prepare and conduct examinations for dental hygiene licensure;
- (2) Require an applicant for licensure to pass an examination consisting of written and practical tests upon such subjects and of such scope as the committee determines;
- (3) Set the standards for passage of the examination;
- (4) Administer at least two examinations each calendar year. Additional examinations may be given as necessary; and
- (5) Establish by rule the procedures for an appeal of an examination failure. [1995 c 198 § 5; 1991 c 3 § 52; 1989 c 202 § 4.]

18.29.130 Secretary's authority—Generally—Continuing education. In addition to any other authority provided by law, the secretary may:

- (1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;
- (2) Establish forms necessary to administer this chapter;
- (3) Issue a license to any applicant who has met the education and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure. Proceedings concerning the denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;
- (4) Employ clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those licensed under this chapter, to serve as examiners or consultants as necessary to implement and administer this chapter;
- (5) Maintain the official departmental record of all applicants and licensees;
- (6) Establish, by rule, the minimum education requirements for licensure, including but not limited to approval of educational programs; and
- (7) Establish and implement by rule a continuing education program. [1991 c 3 § 53; 1989 c 202 § 5.]

18.29.140 Approval of educational programs. The secretary shall establish by rule the standards and procedures for approval of educational programs and may contract with individuals or organizations having expertise in the profession or in education to report to the secretary information necessary for the secretary to evaluate the educational programs. The secretary may establish a fee for educational program evaluation. The fee shall be set to defray the administrative costs for evaluating the educational program, including, but not limited to, costs for site evaluation. [1991 c 3 § 54; 1989 c 202 § 6.]

18.29.150 Examinations. (1) The secretary shall establish the date and location of the examination. Applicants who meet the education requirements for licensure shall be scheduled for the next examination following the filing of the

application. The secretary shall establish by rule the examination application deadline.

(2) The examination shall contain subjects appropriate to the scope of practice and on laws in the state of Washington regulating dental hygiene practice.

(3) The committee shall establish by rule the requirements for a reexamination if the applicant has failed the examination.

(4) The committee may approve an examination prepared or administered by a private testing agency or association of licensing authorities. [1991 c 3 § 55; 1989 c 202 § 7.]

18.29.160 Immunity. The secretary, members of the committee, and individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties. [1991 c 3 § 56; 1989 c 202 § 8.]

18.29.170 Committee meetings—Quorum—Effect of vacancy. The committee shall meet at least once a year and at such times as may be necessary for the transaction of business.

A majority of the committee shall constitute a quorum.

A vacancy in the committee membership shall not impair the right of the remaining members of the committee to exercise any power or to perform any duty of the committee, so long as the power is exercised or the duty performed by a quorum of the committee. [1989 c 202 § 9.]

18.29.180 Exemptions from chapter. The following practices, acts, and operations are excepted from the operation of this chapter:

(1) The practice of dental hygiene in the discharge of official duties by dental hygienists in the United States armed services, coast guard, public health services, veterans' bureau, or bureau of Indian affairs;

(2) Dental hygiene programs approved by the secretary and the practice of dental hygiene by students in dental hygiene programs approved by the secretary, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW acting as instructors;

(3) The practice of dental hygiene by students in accredited dental hygiene educational programs when acting under the direction and supervision of instructors licensed under chapter 18.29 or 18.32 RCW. [2004 c 262 § 4; 1991 c 3 § 57; 1989 c 202 § 10.]

Findings—2004 c 262: See note following RCW 18.06.050.

18.29.190 Initial limited license. (1) The department shall issue an initial limited license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state or Canadian province that allows a substantively equivalent scope of practice in subsection (3)(a) through (j) of this section;

(b) Is currently engaged in active practice in another state or Canadian province. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;

(c) Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state or Canadian province;

(d) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

(e) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs;

(f) Pays any required fees; and

(g) Meets requirements for AIDS education.

(2) The term of the initial limited license issued under this section is eighteen months and it is renewable upon:

(a) Demonstration of successful passage of a substantively equivalent dental hygiene patient evaluation/prophylaxis examination;

(b) Demonstration of successful passage of a substantively equivalent local anesthesia examination; and

(c) Demonstration of didactic and clinical competency in the administration of nitrous oxide analgesia.

(3) A person practicing with an initial limited license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

(e) Polishing and smoothing restorations;

(f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;

(g) Recording health histories;

(h) Taking and recording blood pressure and vital signs;

(i) Performing subgingival and supragingival scaling; and

(j) Performing root planing.

(4)(a) A person practicing with an initial limited license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

(i) Give injections of local anesthetic;

(ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;

(iii) Soft tissue curettage; or

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia. For purposes of the renewed limited license, this endorsement demonstrates the successful passage of the local anesthesia examination.

(c) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures.

(5)(a) A person practicing with a renewed limited license granted under this section may:

(i) Perform hygiene procedures as provided under subsection (3) of this section;

(ii) Give injections of local anesthetic;

(iii) Perform soft tissue curettage; and

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person practicing with a renewed limited license granted under this section may not place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration. [2015 c 120 § 2; 2006 c 66 § 1; 2004 c 262 § 3; 1993 c 323 § 2.]

Findings—2004 c 262: See note following RCW 18.06.050.

18.29.210 Rules. The secretary in consultation with the dental hygiene examining committee shall develop rules and definitions to implement this chapter. [1993 c 323 § 4.]

18.29.220 Community-based sealant programs in schools—Data collection. For low-income, rural, and other at-risk populations and in coordination with local public health jurisdictions and local oral health coalitions, a dental hygienist licensed in this state may assess for and apply sealants and apply fluoride varnishes, and may remove deposits and stains from the surfaces of teeth in community-based sealant programs carried out in schools:

(1) Without attending the department's school sealant endorsement program if the dental hygienist was licensed as of April 19, 2001; or

(2) If the dental hygienist is school sealant endorsed under RCW 43.70.650.

A hygienist providing services under this section must collect data on patients treated, including age, treatment rendered, methods of reimbursement for treatment, evidence of coordination with local public health jurisdictions and local oral health coalitions, and patient referrals to dentists. This data must be submitted to the department of health at the end of each annual quarter, during the period of time between October 1, 2007, and October 1, 2013. [2009 c 321 § 2; 2007 c 270 § 2; 2001 c 93 § 3.]

Report—Effective date—2009 c 321: See notes following RCW 18.29.056.

Report—2007 c 270: See note following RCW 18.29.056.

Findings—Intent—Effective date—2001 c 93: See notes following RCW 43.70.650.

18.29.230 Services at senior centers and community-based sealant programs—Dental hygienist duties. A dental hygienist participating in a program under RCW 18.29.056 that involves providing services at senior centers, as defined in RCW 18.29.056, or under RCW 18.29.220 that involves removing deposits and stains from the surfaces of teeth in a community-based sealant program must:

(1) Provide the patient or, if the patient is a minor, the parent or legal guardian of the patient, if reasonably available, with written information that includes at least the following:

(a) A notice that the treatment being given under the program is not a comprehensive oral health care service, but is provided as a preventive service only; and

(b) A recommendation that the patient should be examined by a licensed dentist for comprehensive oral health care services; and

(2) Assist the patient in obtaining a referral for further dental planning and treatment, including providing a written description of methods and sources by which a patient may obtain a referral, if needed, to a dentist, and a list of licensed dentists in the community. Written information should be provided to the parent on the potential needs of the patient. [2007 c 270 § 3.]

Report—2007 c 270: See note following RCW 18.29.056.

18.29.900 Construction—1923 c 16. Words used in this chapter importing the singular number may also be applied to the plural of persons and things. Words importing the plural may be applied to the singular, and words importing the masculine gender may be extended to females also. [1923 c 16 § 37.]

Number and gender: RCW 1.12.050.

Chapter 18.30 RCW DENTURISTS

Sections

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18.30.900	Short title—1995 c 1 (Initiative Measure No. 607).

18.30.005 Finding, intent. The state of Washington finds that to realize the state's current statutory policy of regulating health professions at the least restrictive level consistent with the public interest, a program of licensure for denturists should be established. The intent of the legislature is to help assure the public's health, provide a mechanism for consumer protection, and offer cost-effective alternatives for denture care services and products to individual consumers and the state. [1995 c 1 § 1 (Initiative Measure No. 607, approved November 8, 1994).]

18.30.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the Washington state board of denturists.

(2) "Denture" means a removable full or partial upper or lower dental appliance to be worn in the mouth to replace missing natural teeth.

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(3) "Denturist" means a person licensed under this chapter to engage in the practice of denturism.

(4) "Department" means the department of health.

(5) "Practice of denturism" means:

(a) Making, placing, constructing, altering, reproducing, or repairing a denture;

(b) Taking impressions and furnishing or supplying a denture directly to a person or advising the use of a denture, and maintaining a facility for the same;

(c) Making, placing, constructing, altering, reproducing, or repairing the following nonorthodontic removable oral devices, excluding devices intended to treat obstructive sleep apnea or to treat temporomandibular joint dysfunction, where accompanied by written encouragement to have regular dental checkups with a licensed dentist:

(i) Bruxism devices;

(ii) Sports mouth guards;

(iii) Removable cosmetic appliances, regardless of whether the patient is missing teeth; and

(iv) Snoring devices, only after a physician has ruled out snoring associated with sleep breathing disorders, including obstructive sleep apnea; and

(d) Providing teeth whitening services, including fabricating whitening trays, providing whitening solutions determined to be safe for public use, and providing required follow-up care and instructions for use of the trays and solutions at home.

(6) "Secretary" means the secretary of health or the secretary's designee. [2013 c 172 § 1; 2002 c 160 § 1; 1995 c 1 § 2 (Initiative Measure No. 607, approved November 8, 1994).]

Effective date—2013 c 172: "This act takes effect July 1, 2014." [2013 c 172 § 3.]

18.30.020 Examination of patient—Sanctions—Training and licensing examination. (1) Before making and fitting a denture, a denturist shall examine the patient's oral cavity.

(a) If the examination gives the denturist reasonable cause to believe that there is an abnormality or disease process that requires medical or dental treatment, the denturist shall immediately refer the patient to a dentist or physician. In such cases, the denturist shall take no further action to manufacture or place a denture until the patient has been examined by a dentist or physician and the dentist or physician gives written clearance that the denture will pose no threat to the patient's health.

(b) If the examination reveals the need for tissue or teeth modification in order to assure proper fit of a full or partial denture, the denturist shall refer the patient to a dentist and assure that the modification has been completed before taking an impression for the completion of the denture.

(2) A denturist who makes or places a denture in a manner not consistent with this section is subject to the sanctions provided in chapter 18.130 RCW, the uniform disciplinary act.

(3) A denturist must successfully complete special training in oral pathology prescribed by the board, whether as part of an approved associate degree program or equivalent training, and pass an examination prescribed by the board, which may be a part of the examination for licensure to become a

licensed dentist. [2002 c 160 § 2; 1995 c 198 § 18; 1995 c 1 § 3 (Initiative Measure No. 607, approved November 8, 1994).]

Additional notes found at www.leg.wa.gov

18.30.030 Licensing required. No person may represent himself or herself as a licensed dentist or use any title or description of services without applying for licensure, meeting the required qualifications, and being licensed as a dentist by the board, unless otherwise exempted by this chapter. [2013 c 171 § 1; 1995 c 1 § 4 (Initiative Measure No. 607, approved November 8, 1994).]

18.30.040 Exclusions from chapter. Nothing in this chapter prohibits or restricts:

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

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

(3) The practice of dentistry by students enrolled in a school approved by the board. The performance of services must be pursuant to a course of instruction or an assignment from an instructor and under the supervision of an instructor; or

(4) Work performed by dental labs and dental technicians under the written prescription of a dentist. [2002 c 160 § 3; 1995 c 1 § 5 (Initiative Measure No. 607, approved November 8, 1994).]

18.30.050 Board of dentists—Members, terms, travel expenses, removal. (1) The Washington state board of dentists is created. The board shall consist of seven members appointed by the secretary as follows:

(a) Four members of the board must be dentists licensed under this chapter, except initial appointees, who must have five years' experience in the field of dentistry or a related field.

(b) Two members shall be selected from persons who are not affiliated with any health care profession or facility, at least one of whom must be over sixty-five years of age representing the elderly.

(c) One member must be a dentist licensed in the state of Washington.

(2) The members of the board shall serve for terms of three years. The terms of the initial members shall be staggered, with the members appointed under subsection (1)(a) of this section serving two-year and three-year terms initially and the members appointed under subsection (1)(b) and (c) of this section serving one-year, two-year, and three-year terms initially. Vacancies shall be filled in the same manner as the original appointments are made. Appointments to fill vacancies shall be for the remainder of the unexpired term of the vacant position.

(3) No appointee may serve more than two consecutive terms.

(4) Members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(5) A member of the board may be removed for just cause by the secretary. [2002 c 160 § 4; 1995 c 1 § 6 (Initiative Measure No. 607, approved November 8, 1994).]

18.30.060 Board—Officers, quorum. (1) The board shall elect a chairperson of the board annually. The same person may not hold the office of chairperson for more than three years in succession.

(2) A majority of the board constitutes a quorum for all purposes, and a majority vote of the members voting governs the decisions of the board. [1995 c 1 § 7 (Initiative Measure No. 607, approved November 8, 1994).]

18.30.065 Duties of board. The board shall:

(1) Determine the qualifications of persons applying for licensure under this chapter;

(2) Prescribe, administer, and determine the requirements for examinations under this chapter and establish a passing grade for licensure under this chapter;

(3) Adopt rules under chapter 34.05 RCW to carry out the provisions of this chapter;

(4) Have authority to provide requirements for continuing competency as a condition of license renewal by rule; and

(5) Evaluate and approve those schools from which graduation is accepted as proof of an applicant's completion of coursework requirements for licensure. [2013 c 171 § 2; 2002 c 160 § 5.]

18.30.090 Licensing requirements. The secretary shall issue a license to practice dentistry to an applicant who submits a completed application, pays the appropriate fees, and meets the following requirements:

(1) A person currently licensed to practice dentistry under statutory provisions of another state, territory of the United States, District of Columbia, or Puerto Rico, with substantially equivalent licensing standards to this chapter shall be licensed without examination upon providing the board with the following:

(a) Proof of successfully passing a written and clinical examination for dentistry in a state, territory of the United States, District of Columbia, or Puerto Rico, that the board has determined has substantially equivalent licensing standards as those in this chapter, including but not limited to both the written and clinical examinations; and

(b) An affidavit from the licensing agency where the person is licensed or certified attesting to the fact of the person's licensure or certification.

(2) A person graduating from a formal dentistry program shall be licensed if he or she:

(a) Documents successful completion of formal training with a major course of study in dentistry of not less than two years in duration at an educational institution approved by the board; and

(b) Passes a written and clinical examination approved by the board. [2013 c 171 § 3; 2002 c 160 § 6; 1995 c 198 § 20; 1995 c 1 § 10 (Initiative Measure No. 607, approved November 8, 1994).]

Additional notes found at www.leg.wa.gov

18.30.095 Licensing requirements—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of the state. [2013 c 171 § 4; 2011 c 32 § 1.]

18.30.100 Licensing examinations. The board shall administer the examinations for licensing under this chapter, subject to the following requirements:

(1) Examinations shall determine the qualifications, fitness, and ability of the applicant to practice denturism. The test shall include a written examination and a practical demonstration of skills.

(2) Examinations shall be held at least annually.

(3) The first examination shall be conducted not later than July 1, 1995.

(4) The written examination shall cover the following subjects: (a) Head and oral anatomy and physiology; (b) oral pathology; (c) partial denture construction and design; (d) microbiology; (e) clinical dental technology; (f) dental laboratory technology; (g) clinical jurisprudence; (h) asepsis; (i) medical emergencies; and (j) cardiopulmonary resuscitation.

(5) Upon payment of the appropriate fee, an applicant who fails either the written or practical examination may have additional opportunities to take the portion of the examination that he or she failed.

The secretary may hire trained persons licensed under this chapter to prepare, administer, and grade the examinations or may contract with regional examiners who meet qualifications adopted by the board. [2002 c 160 § 7; 1995 c 198 § 21; 1995 c 1 § 11 (Initiative Measure No. 607, approved November 8, 1994).]

Additional notes found at www.leg.wa.gov

18.30.120 Requirements determined by secretary—License content. (1) The licensing period, administrative procedures, administrative requirements, and fees shall be determined by the secretary as provided in RCW 43.70.250 and 43.70.280.

(2) The license shall contain, on its face, the address or addresses where the license holder will perform the denturist services. [1996 c 191 § 12; 1995 c 1 § 13 (Initiative Measure No. 607, approved November 8, 1994).]

18.30.130 License renewal. The board shall establish by rule the requirements for renewal of licenses to practice denturism, but shall not increase the licensure requirements provided in this chapter. The secretary shall establish administrative procedures, administrative requirements, and fees for license periods and renewals as provided in RCW 43.70.250 and 43.70.280. [2013 c 171 § 5; 1996 c 191 § 13; 1995 c 198 § 23; 1995 c 1 § 14 (Initiative Measure No. 607, approved November 8, 1994).]

Additional notes found at www.leg.wa.gov

18.30.135 Discipline. The Uniform Disciplinary Act, chapter 18.130 RCW, shall govern the issuance and denial of licenses, unauthorized practice, and the discipline of persons licensed under this chapter. The board shall be the disci-

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plinary authority under this chapter. [2013 c 171 § 6; 1995 c 336 § 3.]

Additional notes found at www.leg.wa.gov

18.30.140 Inactive licenses. (1) An individual may place his or her license on inactive status. The holder of an inactive license shall not practice denturism in this state without first activating the license.

(2) An inactive license may be placed in an active status upon compliance with rules established by the board.

(3) The provisions relating to denial, suspension, and revocation of a license are applicable to an inactive license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [2002 c 160 § 8; 1995 c 198 § 24; 1995 c 1 § 15 (Initiative Measure No. 607, approved November 8, 1994).]

Additional notes found at www.leg.wa.gov

18.30.150 Partnerships with dentists. Notwithstanding any other provision of state law, a licensed denturist may enter into a partnership or other business association with a dentist, provided that such association does not impede the independent professional judgment of either party. [1995 c 1 § 16 (Initiative Measure No. 607, approved November 8, 1994).]

18.30.160 Education and training—Nonorthodontic removable oral devices and teeth whitening services. Prior to providing the services mentioned in RCW 18.30.010(5) (c) and (d), a licensed denturist must provide documentation to the board that he or she received education and training on providing the services. The board must, by rule, specify the education and training necessary to provide the services mentioned in RCW 18.30.010(5) (c) and (d). [2013 c 172 § 2.]

Effective date—2013 c 172: See note following RCW 18.30.010.

18.30.900 Short title—1995 c 1 (Initiative Measure No. 607). This chapter may be known and cited as the Washington state denturist act. [1995 c 1 § 17 (Initiative Measure No. 607, approved November 8, 1994).]

Chapter 18.32 RCW DENTISTRY

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Anesthesia, administration for nondental purposes: RCW 18.71.030.

Dental hygienists: Chapter 18.29 RCW.

Dentists, actions against, limitation of: RCW 4.16.350.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Lien of doctors: Chapter 60.44 RCW.

Rebating by practitioners of healing professions prohibited: Chapter 19.68 RCW.

18.32.002 Findings—Purpose. The legislature finds that the health and well-being of the people of this state are of paramount importance.

The legislature further finds that the conduct of members of the dental profession licensed to practice dentistry in this state plays a vital role in preserving the health and well-being of the people of the state.

The legislature further finds that requiring continuing dental education for all licensed dentists in the state is an important component of providing high quality dentistry for the people of this state.

The legislature further finds that there is no effective means of handling disciplinary proceedings against members of the dental profession licensed in this state when such proceedings are necessary for the protection of the public health.

Therefore, the legislature declares its intention to exercise the police power of the state to protect the public health, to promote the welfare of the state, and to provide a commission to act as a disciplinary and regulatory body for the members of the dental profession licensed to practice dentistry in this state.

It is the purpose of the commission established in RCW 18.32.0351 to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensure, continuing education, consistent standards of practice,

continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state. [1999 c 364 § 1; 1994 sp.s. c 9 § 201.]

18.32.005 Regulation of health care professions—Criteria. See chapter 18.120 RCW.

18.32.010 Words defined. Words used in the singular in this chapter may also be applied to the plural of the persons and things; words importing the plural may be applied to the singular; words importing the masculine gender may be extended to females also; the term "commission" used in this chapter shall mean the Washington state dental quality assurance commission; and the term "secretary" shall mean the secretary of health of the state of Washington. [1994 sp.s. c 9 § 202; 1991 c 3 § 58; 1935 c 112 § 1; RRS § 10031-1.]

Number and gender: RCW 1.12.050.

18.32.020 Practice of dentistry defined. A person practices dentistry, within the meaning of this chapter, who (1) represents himself or herself as being able to diagnose, treat, remove stains and concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw, or (2) offers or undertakes by any means or methods to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, or take impressions of the teeth or jaw, or (3) owns, maintains, or operates an office for the practice of dentistry, or (4) engages in any of the practices included in the curricula of recognized and approved dental schools or colleges, or (5) professes to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign, or other media whereby he or she represents himself or herself to be a dentist, shall be prima facie evidence that such person is engaged in the practice of dentistry.

X-ray diagnosis as to the method of dental practice in which the diagnosis and examination is made of the normal and abnormal structures, parts, or functions of the human teeth, the alveolar process, maxilla, mandible or soft tissues adjacent thereto, is hereby declared to be the practice of dentistry. Any person other than a regularly licensed physician or surgeon who makes any diagnosis or interpretation or explanation, or attempts to diagnose or to make any interpretation or explanation of the registered shadow or shadows of any part of the human teeth, alveolar process, maxilla, mandible or soft tissues adjacent thereto by the use of X-ray is declared to be engaged in the practice of dentistry, medicine, or surgery.

The practice of dentistry includes the performance of any dental or oral and maxillofacial surgery. "Oral and maxillofacial surgery" means the specialty of dentistry that includes the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects of the hard and soft tissues of the oral and maxillofacial region. [2011 c 336 § 477; 1996 c 259 § 1; 1957 c 98 § 1; 1957 c 52 § 20. Prior: (i) 1935 c 112 § 6;

RRS § 10031-6. (ii) 1943 c 240 § 1; Rem. Supp. 1943 § 10031-6a.]

18.32.030 Exemptions from chapter. The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The rendering of dental relief in emergency cases in the practice of his or her profession by a physician or surgeon, licensed as such and registered under the laws of this state, unless the physician or surgeon undertakes to or does reproduce lost parts of the human teeth in the mouth or to restore or to replace in the human mouth lost or missing teeth;

(2) The practice of dentistry in the discharge of official duties by dentists in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) Dental schools or colleges approved under RCW 18.32.040, and the practice of dentistry by students in accredited dental schools or colleges approved by the commission, when acting under the direction and supervision of Washington state-licensed dental school faculty;

(4) The practice of dentistry by licensed dentists of other states or countries while appearing as clinicians at meetings of the Washington state dental association, or component parts thereof, or at meetings sanctioned by them, or other groups approved by the commission;

(5) The use of roentgen and other rays for making radiographs or similar records of dental or oral tissues, under the supervision of a licensed dentist or physician;

(6) The making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts; providing the same are made, repaired, altered, or supplied pursuant to the written instructions and order of a licensed dentist which may be accompanied by casts, models, or impressions furnished by the dentist, and the prescriptions shall be retained and filed for a period of not less than three years and shall be available to and subject to the examination of the secretary or the secretary's authorized representatives;

(7) The removal of deposits and stains from the surfaces of the teeth, the application of topical preventative or prophylactic agents, and the polishing and smoothing of restorations, when performed or prescribed by a dental hygienist licensed under the laws of this state;

(8) A qualified and licensed physician and surgeon or osteopathic physician and surgeon extracting teeth or performing oral surgery pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

(9) The performing of dental operations or services by registered dental assistants and licensed expanded function dental auxiliaries holding a credential issued under chapter 18.260 RCW when performed under the supervision of a licensed dentist, or by other persons not licensed under this chapter if the person is licensed pursuant to chapter 18.29, 18.57, 18.71, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, each while acting within the scope of the person's permitted practice under the person's license: PROVIDED HOWEVER, That such

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persons shall in no event perform the following dental operations or services unless permitted to be performed by the person under this chapter or chapters 18.29, 18.57, 18.71, 18.79 as it applies to registered nurses and advanced registered nurse practitioners, and 18.260 RCW:

(a) Any removal of or addition to the hard or soft tissue of the oral cavity;

(b) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;

(c) Any administration of general or injected local anesthetic of any nature in connection with a dental operation, including intravenous sedation;

(d) Any oral prophylaxis;

(e) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis; and

(10) The performing of dental services described in RCW 18.350.040 by dental anesthesia assistants certified under chapter 18.350 RCW when working under the supervision and direction of an oral and maxillofacial surgeon or dental anesthesiologist. [2012 c 23 § 7; 2007 c 269 § 15; 2003 c 282 § 1; 1994 sp.s. c 9 § 203; 1991 c 3 § 59; 1989 c 202 § 13; 1979 c 158 § 35; 1971 ex.s. c 236 § 1; 1969 c 47 § 7; 1957 c 52 § 21; 1953 c 93 § 1; 1951 c 130 § 1. Prior: (i) 1941 c 92 § 3; 1935 c 112 § 25; Rem. Supp. 1941 § 10031-25; prior: 1923 c 16 § 23. (ii) 1935 c 112 § 6; RRS § 10031-6; prior: 1923 c 16 § 1; 1901 c 152 § 5; 1893 c 55 § 11.]

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

18.32.0351 Commission established—Membership.

The Washington state dental quality assurance commission is established, consisting of sixteen members each appointed by the governor to a four-year term. No member may serve more than two consecutive full terms. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, members of the previous boards and committees regulating these professions be appointed to the commission. Members of the commission hold office until their successors are appointed. The governor may appoint members of the initial commission to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. Twelve members of the commission must be dentists, two members must be expanded function dental auxiliaries licensed under chapter 18.260 RCW, and two members must be public members. [2007 c 269 § 16; 1994 sp.s. c 9 § 204.]

Effective date—2007 c 269 § 16: "Section 16 of this act takes effect July 1, 2009." [2007 c 269 § 20.]

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

18.32.0353 Commission—Removal of member—Order of removal—Vacancy.

The governor may remove a member of the commission for neglect of duty, misconduct, or malfeasance or misfeasance in office. Whenever the governor is satisfied that a member of the commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement of the causes for and the order of removal

from office, and the secretary shall forthwith send a certified copy of the order of removal and statement of causes by certified mail to the last known post office address of the member. If a vacancy occurs on the commission, the governor shall appoint a replacement to fill the remainder of the unexpired term. [1994 sp.s. c 9 § 205.]

18.32.0355 Commission—Qualifications of members. Members must be citizens of the United States and residents of this state. Dentist members must be licensed dentists in the active practice of dentistry for a period of five years before appointment. Of the twelve dentists appointed to the commission, at least four must reside and engage in the active practice of dentistry east of the summit of the Cascade mountain range. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission. [1994 sp.s. c 9 § 206.]

18.32.0357 Commission—Duties and powers—Attorney general to advise, represent. The commission shall elect officers each year. Meetings of the commission are open to the public, except the commission may hold executive sessions to the extent permitted by chapter 42.30 RCW. The secretary of health shall furnish such secretarial, clerical, and other assistance as the commission may require.

A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business. The affirmative vote of a majority of a quorum of the commission is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

The commission may appoint members of panels consisting of not less than three members. A quorum for transaction of any business shall be a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

The members of the commission are immune from suit in an action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the commission.

The commission may, whenever the workload of the commission requires, request that the secretary appoint pro tempore members. While serving as members pro tempore persons have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses, of the commission.

The commission shall prepare or determine the nature of the examinations for applicants to practice dentistry.

The commission shall establish continuing dental education requirements.

The attorney general shall advise the commission and represent it in all legal proceedings. [1999 c 364 § 2; 1994 sp.s. c 9 § 207.]

18.32.0358 Commission successor to other boards. The commission is the successor in interest of the board of dental examiners and the dental disciplinary board. All contracts, undertakings, agreements, rules, regulations, and policies continue in full force and effect on July 1, 1994, unless

otherwise repealed or rejected by chapter 9, Laws of 1994 sp. sess. or by the commission. [1994 sp.s. c 9 § 226.]

18.32.0361 Compensation of commission members. Each member of the commission shall be compensated in accordance with RCW 43.03.265. 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. Commission members shall be compensated and reimbursed for their activities in developing or administering a multistate licensing examination, as provided in this chapter. [1999 c 366 § 3; 1994 sp.s. c 9 § 208.]

18.32.0363 Examinations—Contracts for administration—Multistate. The commission may contract with competent persons on a temporary basis to assist in developing or administering examinations for licensure.

The commission may enter into compacts and agreements with other states and with organizations formed by several states, for the purpose of conducting multistate licensing examinations. The commission may enter into the 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 the compacts and agreements 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. [1994 sp.s. c 9 § 209.]

18.32.0365 Rules. The commission may adopt rules in accordance with chapter 34.05 RCW to implement this chapter and chapter 18.130 RCW. [1994 sp.s. c 9 § 210.]

18.32.039 Application of uniform disciplinary act. 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. [1987 c 150 § 17; 1986 c 259 § 34.]

Additional notes found at www.leg.wa.gov

18.32.040 Requirements for licensure. The commission shall require that every applicant for a license to practice dentistry shall:

(1) Present satisfactory evidence of graduation from a dental college, school, or dental department of an institution approved by the commission;

(2) Submit, for the files of the commission, a recent picture duly identified and attested; and

(3)(a) Pass an examination prepared or approved by and administered under the direction of the commission. The dentistry licensing examination shall consist of practical and written tests upon such subjects and of such scope as the commission determines. The commission shall set the standards for passing the examination. The secretary shall keep on file the examination papers and records of examination for at least one year. This file shall be open for inspection by the applicant or the applicant's agent unless the disclosure will compromise the examination process as determined by the commission or is exempted from disclosure under chapter 42.56 RCW.

(b) The commission may accept, in lieu of all or part of the written examination required in (a) of this subsection, a certificate granted by a national or regional testing organization approved by the commission.

(c) The commission shall accept, in lieu of the practical examination required in (a) of this subsection, proof that an applicant has satisfactorily completed a postdoctoral dental residency program accredited by the commission on dental accreditation of the American dental association and approved by the commission, of one to three year's duration, in a community health clinic that serves predominantly low-income patients or is located in a dental care health professional shortage area in this state, and that includes an outcome assessment evaluation, other than the western regional examining board's clinical examination, assessing the resident's competence to practice dentistry. The commission shall develop criteria, consistent with the standards of the commission on dental accreditation of the American dental association, for community clinics to use when sponsoring students in a residency program under this subsection, including guidelines for the proper supervision of the resident and measuring the resident's competence to practice dentistry. [2005 c 454 § 2; 2005 c 274 § 222; 1994 sp.s. c 9 § 211; 1991 c 3 § 61; 1989 c 202 § 16; 1979 c 38 § 2; 1935 c 112 § 5; RRS § 10031-5. Prior: 1923 c 16 §§ 4, 5. Formerly RCW 18.32.040 and 18.32.130 through 18.32.150.]

Reviser's note: This section was amended by 2005 c 274 § 222 and by 2005 c 454 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

18.32.050 Compensation and reimbursement for administering examination. Commission members shall be compensated and reimbursed pursuant to this section for their activities in administering a multi-state licensing examination pursuant to the commission's compact or agreement with another state or states or with organizations formed by several states. [1995 c 198 § 2; 1994 sp.s. c 9 § 212; 1984 c 287 § 30; 1979 c 38 § 3; 1975-'76 2nd ex.s. c 34 § 34; 1967 c 188 § 2; 1957 c 52 § 23; 1953 c 93 § 3. Prior: 1935 c 112 § 11, part; RRS § 10031-11, part.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.32.091 License required. 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. [1987 c 150 § 18.]

Additional notes found at www.leg.wa.gov

18.32.100 Applications. The applicant for a dentistry license shall file an application on a form furnished by the secretary, stating the applicant's name, age, place of residence, the name of the school or schools attended by the applicant, the period of such attendance, the date of the applicant's graduation, whether the applicant has ever been the subject of any disciplinary action related to the practice of dentistry, and shall include a statement of all of the appli-

cant's dental activities. This shall include any other information deemed necessary by the commission.

The application shall be signed by the applicant and shall be accompanied by proof of the applicant's school attendance and graduation. [2015 c 72 § 8; 1994 sp.s. c 9 § 213; 1991 c 3 § 62; 1989 c 202 § 18; 1957 c 52 § 28; 1953 c 93 § 4; 1951 c 130 § 2; 1941 c 92 § 2; 1935 c 112 § 4; Rem. Supp. 1941 § 10031-4, part. Prior: 1923 c 16 §§ 2, 3, 6, 7; 1901 c 152 § 1; 1893 c 55 § 4.]

18.32.110 Application fee. Each applicant shall pay a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 14; 1991 c 3 § 63; 1989 c 202 § 19; 1985 c 7 § 23; 1975 1st ex.s. c 30 § 27; 1969 c 49 § 1; 1957 c 52 § 29. Prior: 1941 c 92 § 2, part; 1935 c 112 § 4; Rem. Supp. 1941 § 10031-4, part.]

18.32.160 Licenses—Who shall sign. All licenses issued by the secretary on behalf of the commission shall be signed by the secretary or chairperson and secretary of the commission. [1994 sp.s. c 9 § 215; 1991 c 3 § 65; 1989 c 202 § 21; 1951 c 130 § 3; 1935 c 112 § 17; RRS § 10031-17.]

18.32.170 Duplicate licenses—Fee. A fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280 shall be charged for every duplicate license issued by the secretary. [1996 c 191 § 15; 1991 c 3 § 66; 1985 c 7 § 25; 1975 1st ex.s. c 30 § 29; 1957 c 52 § 25. Prior: 1935 c 112 § 11, part; RRS § 10031-11, part.]

18.32.180 License renewal. Every person licensed to practice dentistry in this state shall renew his or her license and comply with administrative procedures, administrative requirements, continuing education requirements, and fees as provided in RCW 43.70.250 and 43.70.280. The commission, in its sole discretion, may permit the applicant to be licensed without examination, and with or without conditions, if it is satisfied that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of dentistry. [1999 c 364 § 3; 1996 c 191 § 16; 1994 sp.s. c 9 § 216; 1991 c 3 § 67; 1989 c 202 § 22; 1985 c 7 § 26; 1975 1st ex.s. c 30 § 30; 1969 c 49 § 3; 1951 c 130 § 4; 1935 c 112 § 24; RRS § 10031-24.]

Additional notes found at www.leg.wa.gov

18.32.185 Inactive license status. The commission may adopt rules under this section authorizing an inactive license status.

(1) An individual licensed under chapter 18.32 RCW may place his or her license on inactive status. The holder of an inactive license must not practice dentistry in this state without first activating the license.

(2) The inactive renewal fee must be established by the secretary under RCW 43.70.250. Failure to renew an inactive license shall result in cancellation of the inactive license in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with rules established by the commission.

(4) Provisions relating to disciplinary action against a person with a license are applicable to a person with an inactive license, except that when disciplinary proceedings

against a person with an inactive license have been initiated, the license will remain inactive until the proceedings have been completed. [1996 c 187 § 1.]

18.32.190 Licenses display—Notification of address.

Every person who engages in the practice of dentistry in this state shall cause his or her license to be, at all times, displayed in a conspicuous place, in his or her office wherein he or she shall practice such profession, and shall further, whenever requested, exhibit such license to any of the members of the commission, or its authorized agent, and to the secretary or his or her authorized agent. Every licensee shall notify the secretary of the address or addresses, and of every change thereof, where the licensee shall engage in the practice of dentistry. [1994 sp.s. c 9 § 217; 1991 c 3 § 68; 1981 c 277 § 7; 1935 c 112 § 7; RRS § 10031-7. Prior: 1923 c 16 § 15; 1893 c 55 § 5.]

18.32.195 University of Washington dental school faculty and residents—Licenses. The commission may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The commission may, upon written request of the dean of the school of dentistry of the University of Washington, issue a license to practice dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in another state or country and who have been accepted for employment by the school of dentistry as faculty members. For purposes of this subsection, this means teaching members of the faculty of the school of dentistry of the University of Washington. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a faculty member by the school of dentistry of the University of Washington. It shall terminate whenever the holder ceases to be a faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his or her duties in employment with the school of dentistry of the University of Washington. This limitation shall be stated on the license.

(2) The commission may, upon written request of the dean of the school of dentistry of the University of Washington or the director of a postdoctoral dental residency program approved by the commission, issue a limited license to practice dentistry in this state to university postdoctoral students or residents in dental education or to postdoctoral residents in a dental residency program approved by the commission. Prior to July 1, 2010, a dental residency program must be accredited by the commission on dental accreditation, or be in the process of obtaining such accreditation, in order to be approved by the commission. On or after July 1, 2010, the dental residency program must be accredited by the commission on dental accreditation in order to be approved by the commission. The license shall permit the resident dentist to provide dental care only in connection with his or her duties as a university postdoctoral dental student or resident or a postdoctoral resident in a program approved by the commission.

(3) The commission may condition the granting of a license under this section with terms the commission deems appropriate. All persons licensed under this section shall be

subject to the jurisdiction of the commission to the same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the commission after a hearing has been held in accordance with the provisions set forth in this chapter, and determination by the commission that such licensee has violated any of the restrictions set forth in this section.

(4) Persons applying for licensure pursuant to this section shall pay the application fee determined by the secretary and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the commission, licenses issued under this section may be renewed annually if the licensee continues to be employed as a faculty member of the school of dentistry of the University of Washington, or is a university postdoctoral student or resident in dental education, or a postdoctoral resident in a dental residency program approved by the commission, and otherwise meets the requirements of the provisions and conditions deemed appropriate by the commission. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter. [2009 c 327 § 1. Prior: 2005 c 454 § 1; 2005 c 164 § 1; 1994 sp.s. c 9 § 218; 1992 c 59 § 1; 1991 c 3 § 69; 1985 c 111 § 1.]

Effective date—2009 c 327: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 4, 2009]." [2009 c 327 § 2.]

Additional notes found at www.leg.wa.gov

18.32.215 Licensure without examination—Licensed in another state. (1) An applicant holding a valid license and currently engaged in practice in another state may be granted a license without examination required by this chapter, on the payment of any required fees, if the applicant:

(a) Is a graduate of a dental college, school, or dental department of an institution approved by the commission under RCW 18.32.040(1); or

(b)(i) Has practiced in another state for at least four years; and

(ii) Has completed a one-year postdoctoral residency approved by the commission. The residency may have been completed outside Washington.

(2) The commission may also require the applicant to: (a) File with the commission documentation certifying the applicant is licensed to practice in another state; and (b) provide information as the commission deems necessary pertaining to the conditions and criteria of the Uniform Disciplinary Act, chapter 18.130 RCW, and to demonstrate to the commission a knowledge of Washington law pertaining to the practice of dentistry. [2008 c 147 § 1; 2003 c 57 § 2; 1994 sp.s. c 9 § 219; 1989 c 202 § 30.]

Finding—2003 c 57: "The legislature finds and declares that access to dental care is severely hampered by a critical and emergent shortage of dental providers in Washington state. Dental disease is an epidemic among poor children, the elderly, the disabled, and anyone who does not have access to adequate dental care. Dental decay is worsening among children under four years of age, with forty-one percent of the state's head start children needing treatment for dental decay. The lack of qualified dentists poses a serious and compelling threat to the oral health of the people of this state.

Shortages are also due to licensing restrictions that have discouraged qualified dentists from coming into this state. Increasing the number of den-

tists from other states and from military service would enable retiring dentists in this state to sell their practices to other qualified practitioners." [2003 c 57 § 1.]

18.32.220 Certificate available for dentists going out-of-state. Anyone who is a licensed dentist in the state of Washington who desires to change residence to another state or territory, shall, upon application to the secretary and payment of a fee as determined by the secretary under RCW 43.70.250 and 43.70.280, receive a certificate over the signature of the secretary or his or her designee, which shall attest to the facts mentioned in this section, and giving the date upon which the dentist was licensed. [1996 c 191 § 17; 1991 c 3 § 70; 1989 c 202 § 23; 1935 c 112 § 14; RRS § 10031-14. FORMER PART OF SECTION: 1935 c 112 § 15; RRS § 10031-15, now codified as RCW 18.32.225.]

18.32.222 Commission report—Foreign-trained dentists—Licensure. By November 15, 2009, the commission shall report to the governor and the legislature with recommendations for appropriate standards for issuing a license to a foreign-trained dentist. The recommendations shall consider the balance between maintaining assurances that Washington's dental professionals are well-qualified and planning for an adequate supply of dentists to meet the future needs of Washington's diverse urban and rural communities. In addition to considering the use of standards established by accreditation organizations, the recommendations shall consider other options to reduce barriers to licensure. [2008 c 147 § 2.]

18.32.226 Community-based sealant programs in schools. (1) For low-income, rural, and other at-risk populations and in coordination with local public health jurisdictions and local oral health coalitions, a dental assistant working as of April 19, 2001, under the supervision of a licensed dentist may apply sealants and fluoride varnishes under the general supervision of a dentist in community-based sealant programs carried out in schools without attending the department's school sealant endorsement program.

(2) For low-income, rural, and other at-risk populations and in coordination with local public health jurisdictions and local oral health coalitions, dental assistants who are school sealant endorsed under RCW 43.70.650 may apply sealants and fluoride varnishes under the general supervision of a dentist in community-based sealant programs carried out in schools. [2001 c 93 § 4.]

Findings—Intent—Effective date—2001 c 93: See notes following RCW 43.70.650.

18.32.390 Penalty—General. Any person who violates any of the provisions of the chapter for which no specific penalty has been provided herein, shall be subject to prosecution before any court of competent jurisdiction, and shall, upon conviction, be guilty of a gross misdemeanor. [1986 c 259 § 38; 1935 c 112 § 16; RRS § 10031-16. Prior: 1901 c 152 § 4; 1893 c 55 § 8.]

Additional notes found at www.leg.wa.gov

18.32.530 "Unprofessional conduct." In addition to those acts defined in chapter 18.130 RCW, the term "unprofessional conduct" as used in RCW 18.32.530 through

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18.32.755 includes gross, willful, or continued overcharging for professional services. [1989 c 202 § 26; 1986 c 259 § 41; 1977 ex.s. c 5 § 3.]

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

Additional notes found at www.leg.wa.gov

18.32.533 Unprofessional conduct—Abrogation of copayment provisions. It is unprofessional conduct under this chapter and chapter 18.130 RCW for a dentist to abrogate the copayment provisions of a contract by accepting the payment received from a third party payer as full payment. [1985 c 202 § 1.]

18.32.534 Impaired dentist program—Content—License surcharge. (1) To implement an impaired dentist program as authorized by RCW 18.130.175, the commission shall enter into a contract with a voluntary substance abuse monitoring program. The impaired dentist program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired dentists to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired dentists including those ordered by the commission;
- (f) Providing education, prevention of impairment, post-treatment monitoring, and support of rehabilitated impaired dentists; and
- (g) Performing other related activities as determined by the commission.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to fifty dollars on each license issuance or renewal to be collected by the department of health from every dentist licensed under chapter 18.32 RCW. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired dentist program. [2013 c 129 § 1; 1999 c 179 § 1; 1994 sp.s. c 9 § 220; 1991 c 3 § 72; 1989 c 125 § 1.]

18.32.640 Rules—Administration of sedation and general anesthesia. (1) The commission may adopt such rules as it deems necessary to carry out this chapter.

(2) The commission may adopt rules governing administration of sedation and general anesthesia by persons licensed under this chapter, including necessary training, education, equipment, and the issuance of any permits, certificates, or registration as required. [1994 sp.s. c 9 § 221; 1988 c 217 § 1; 1986 c 259 § 42; 1977 ex.s. c 5 § 14.]

Additional notes found at www.leg.wa.gov

18.32.655 Commission—Supervision of records—Rules. The commission shall:

- (1) Require licensed dentists to keep and maintain a copy of each laboratory referral instruction, describing detailed services rendered, for a period to be determined by the commission but not more than three years, and may require the production of all such records for examination by the commission or its authorized representatives; and

(2) Adopt reasonable rules requiring licensed dentists to make, maintain, and produce for examination by the commission or its authorized representatives such other records as may be reasonable and proper in the performance of its duties and enforcing the provisions of this chapter. [1994 sp.s. c 9 § 222; 1986 c 259 § 35; 1953 c 93 § 8. Formerly RCW 18.32.085.]

Additional notes found at www.leg.wa.gov

18.32.665 Advertising—False—Credit terms. It shall be unlawful for any person, firm, or corporation to publish, directly or indirectly, or circulate any fraudulent, false, or misleading statements within the state of Washington as to the skill or method of practice of any person or operator; or in any way to advertise in print any matter with a view of deceiving the public, or in any way that will tend to deceive or defraud the public; or to claim superiority over neighboring dental practitioners; or to publish reports of cases or certificates of same in any public advertising media; or to advertise as using any anesthetic, drug, formula, medicine, which is either falsely advertised or misnamed; or to employ "capper" or "steerers" to obtain patronage; and any person committing any offense against any of the provisions of this section shall, upon conviction, be subjected to such penalties as are provided in this chapter: PROVIDED, That any person licensed under this chapter may announce credit, terms of credit or installment payments that may be made at periodical intervals to apply on account of any dental service rendered. The commission may adopt such rules as are necessary to carry out the intent of this section. [1994 sp.s. c 9 § 223; 1986 c 259 § 36; 1935 c 112 § 20; RRS § 10031-20. Formerly RCW 18.32.290.]

False advertising: RCW 9.04.010.

Additional notes found at www.leg.wa.gov

18.32.675 Practice or solicitation by corporations prohibited—Penalty. (1) No corporation shall practice dentistry or shall solicit through itself, or its agent, officers, employees, directors or trustees, dental patronage for any dentists or dental surgeon employed by any corporation: PROVIDED, That nothing contained in this chapter shall prohibit a corporation from employing a dentist or dentists to render dental services to its employees: PROVIDED, FURTHER, That such dental services shall be rendered at no cost or charge to the employees; nor shall it apply to corporations or associations in which the dental services were originated and are being conducted upon a purely charitable basis for the worthy poor, nor shall it apply to corporations or associations furnishing information or clerical services which can be furnished by persons not licensed to practice dentistry, to any person lawfully engaged in the practice of dentistry, when such dentist assumes full responsibility for such information and services.

(2) Any corporation violating this section is guilty of a gross misdemeanor, and each day that this chapter is violated shall be considered a separate offense. [2003 c 53 § 124; 1935 c 112 § 19; RRS § 10031-19. Formerly RCW 18.32.310.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

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18.32.685 Prescriptions—Filled by druggists. Registered pharmacists of this state may fill prescriptions of legally licensed dentists of this state for any drug necessary in the practice of dentistry. [1935 c 112 § 26; RRS § 10031-26. Prior: 1923 c 16 § 24. Formerly RCW 18.32.320.]

Pharmacists: Chapter 18.64 RCW.

18.32.695 Identification of new dental prostheses. Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed under this chapter, or fabricated pursuant to the dentist's work order or under the dentist's direction or supervision, shall be marked with the name of the patient for whom the prosthesis is intended. The markings shall be done during fabrication and shall be permanent, legible, and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist or dental laboratory fabricating the prosthesis. If, in the professional judgment of the dentist or dental laboratory, this identification is not practical, identification shall be provided as follows:

(1) The initials of the patient may be shown alone, if use of the name of the patient is impracticable; or

(2) The identification marks may be omitted in their entirety if none of the forms of identification specified in subsection (1) of this section is practicable or clinically safe. [1987 c 252 § 1. Formerly RCW 18.32.322.]

Additional notes found at www.leg.wa.gov

18.32.705 Identification of previously fabricated prostheses. Any removable prosthesis in existence before July 26, 1987, that was not marked in accordance with RCW 18.32.695 at the time of its fabrication, shall be so marked at the time of any subsequent rebasing. [1987 c 252 § 2. Formerly RCW 18.32.324.]

Additional notes found at www.leg.wa.gov

18.32.715 Identification of dental prostheses—Violation. Failure of any dentist to comply with RCW 18.32.695 and 18.32.705 is a violation for which the dentist may be subject to proceedings if the dentist is charged with the violation within two years of initial insertion of the dental prosthetic device. [1987 c 252 § 4. Formerly RCW 18.32.328.]

Additional notes found at www.leg.wa.gov

18.32.725 Sanitary regulations. It shall be the duty of every person engaged in the practice of dentistry or who shall own, operate, or manage any dental office to keep said office and dental equipment in a thoroughly clean and sanitary condition. [1935 c 112 § 27; RRS § 10031-27. Prior: 1923 c 16 § 25. Formerly RCW 18.32.330.]

18.32.735 Unlawful practice—Hygienists—Penalty. Any licensed dentist who shall permit any dental hygienist operating under his or her supervision to perform any operation required to be performed by a dentist under the provisions of this chapter shall be guilty of a misdemeanor. [2011 c 336 § 478; 1935 c 112 § 28; RRS § 10031-28. Formerly RCW 18.32.340.]

18.32.745 Unlawful practice—Employing unlicensed dentist—Penalty. (1) No manager, proprietor, partnership,

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or association owning, operating, or controlling any room, office, or dental parlors, where dental work is done, provided, or contracted for, shall employ or retain any unlicensed person or dentist as an operator; nor shall fail, within ten days after demand made by the secretary of health or the commission in writing sent by certified mail, addressed to any such manager, proprietor, partnership, or association at the room, office, or dental parlor, to furnish the secretary of health or the commission with the names and addresses of all persons practicing or assisting in the practice of dentistry in his or her place of business or under his or her control, together with a sworn statement showing by what license or authority the persons are practicing dentistry.

(2) The sworn statement shall not be used as evidence in any subsequent court proceedings, except in a prosecution for perjury connected with its execution.

(3) Any violation of this section is improper, unprofessional, and dishonorable conduct, and grounds for injunction proceedings as provided by this chapter.

(4)(a) Except as provided in (b) of this subsection, a violation of this section is also a gross misdemeanor.

(b) The failure to furnish the information as may be requested in accordance with this section is a misdemeanor. [2003 c 53 § 125; 1994 sp.s. c 9 § 224; 1991 c 3 § 73; 1977 ex.s. c 5 § 31; 1957 c 52 § 38; 1953 c 93 § 7. Prior: 1937 c 45 § 1, part; 1935 c 112 § 18, part; RRS § 10031-18, part. Formerly RCW 18.32.350.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.32.755 Advertising—Names used—Penalty. (1)

Any advertisement or announcement for dental services must include for each office location advertised the names of all persons practicing dentistry at that office location.

(2) Any violation of this section is improper, unprofessional, and dishonorable conduct, and grounds for injunction proceedings as provided by RCW 18.130.190(4).

(3) A violation of this section is also a gross misdemeanor. [2003 c 53 § 126; 1994 sp.s. c 9 § 225; 1986 c 259 § 37; 1957 c 52 § 39. Prior: 1937 c 45 § 1, part; 1935 c 112 § 18, part; RRS § 10031-18, part. Formerly RCW 18.32.360.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

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

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

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

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

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

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

(b) Consistent with the budgeting and accounting act:

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

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

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

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

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

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

(3) By December 15, 2013, the secretary, the commission, and the other commissions conducting similar pilot projects under RCW 18.71.430, 18.79.390, and 18.25.210, shall report to the governor and the legislature on the results of the pilot project. The report shall:

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

(b) Compare the efficiency of each commission with respect to the timeliness and personnel resources during the

pilot project to the efficiency of the commission prior to the pilot project and the efficiency of other disciplining authorities during the same period as the pilot project;

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

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

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

(4) The secretary shall employ staff that are hired and managed by the executive director provided that nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement. [2011 c 60 § 6; 2008 c 134 § 32.]

Effective date—2011 c 60: See RCW 42.17A.919.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.32.775 Disciplinary proceedings—Cost and fee recovery. (1) In any disciplinary case pertaining to a dentist where there is a contested hearing, if the commission or its hearing panel makes the finding requisite for, and imposes upon the dentist, a disciplinary sanction or fine under RCW 18.130.160, unless it determines to waive the assessment of a hearing fee, it shall assess against the licensee a partial recovery of the state's hearing expenses as follows:

(a) The partial recovery hearing fee must be:

(i) An amount equal to six thousand dollars for each full hearing day in the proceeding and one-half of that amount for any partial hearing day; and

(ii) A partial recovery of investigative and hearing preparation expenses in an amount as found to be reasonable reimbursement under the circumstances but no more than ten thousand dollars;

(b) Substantiation of investigative and hearing preparation expenses for purposes of (a) of this subsection may be by affidavit or declaration descriptive of efforts expended, which are reviewable in the hearing as would be a cost bill;

(c) The commission or its hearing panel may waive the partial recovery hearing fee if it determines the assessment of the fee (i) would create substantial undue hardship for the dentist, or (ii) in all the circumstances of the case, including the nature of the charges alleged, it would be manifestly unjust to assess the fee. Consideration of the waiver must be applied for and considered during the hearing itself. This may be in advance of the decision related to RCW 18.130.160.

(2) If the dentist seeks judicial review of the disciplinary action and there was a partial recovery hearing fee assessed, then unless the license holder achieves a substantial element of relief, the reviewing trial court or appellate court shall further impose a partial cost recovery fee in the amount of twenty-five thousand dollars at the superior court level, twenty-five thousand dollars at the court of appeals level, and twenty-five thousand dollars at the supreme court level. Application for waiver may be made to the court at each level

and must be considered by the court under the standards stated in subsection (1)(c) of this section.

(3) In any disciplinary case pertaining to a dentist where the case is resolved by agreement prior to completion of a contested hearing, the commission shall assess against the dentist a partial recovery of investigative and hearing preparation expenses in an amount as found to be reasonable reimbursement in the circumstances but no more than ten thousand dollars, unless it determines to waive this fee under the standards stated in subsection (1)(c) of this section.

(4) In any stipulated informal disposition of allegations pertaining to a dentist as contemplated under RCW 18.130.172, the potential dollar limit of reimbursement of investigative and processing costs may not exceed two thousand dollars per allegation.

(5) Should the dentist fail to pay any agreed reimbursement or ordered cost recovery under the statute, the commission may seek collection of the amount in the same manner as enforcement of a fine under RCW 18.130.165.

(6) All fee recoveries and reimbursements under this statute must be deposited to the health professions account for the portion of it allocated to the commission. The fee recoveries shall be fully credited in reduction of actual or projected expenditures used to determine dentist license renewal fees.

(7) The authority of the commission under this section is in addition to all of its authorities under RCW 18.130.160, elsewhere in chapter 18.130 RCW, or in this chapter. [2009 c 177 § 1.]

18.32.785 Pain management rules—Criteria for new rules. (1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a dentist first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a dentist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of dentists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure. [2010 c 209 § 2.]

**Chapter 18.34 RCW
DISPENSING OPTICIANS**

Sections

18.34.005	Regulation of health care professions—Criteria.
18.34.010	Licensing—Exemptions—Limitations.
18.34.020	Definitions.
18.34.030	Apprentices.
18.34.050	Examining committee—Compensation and travel expenses.
18.34.060	Dispensing optician.
18.34.070	Applicants—Eligibility for examination—Fee.
18.34.080	Examination—Issuance and display of license.
18.34.110	Existing practitioner—Fee.
18.34.115	Credentialing by endorsement.
18.34.120	Renewal registration fee—Continuing education.
18.34.136	Application of uniform disciplinary act.
18.34.141	License required.
18.34.151	Licensing requirements—Military training or experience.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Homeless person vision services: RCW 43.20A.800 through 43.20A.850.

18.34.005 Regulation of health care professions—Criteria. See chapter 18.120 RCW.

18.34.010 Licensing—Exemptions—Limitations. Nothing in this chapter shall:

(1) Be construed to limit or restrict a duly licensed physician or optometrist or employees working under the personal supervision of a duly licensed physician or optometrist from the practices enumerated in this chapter, and each such licensed physician and optometrist shall have all the rights and privileges which may accrue under this chapter to dispensing opticians licensed hereunder;

(2) Be construed to prohibit or restrict practice by a regularly enrolled student in a prescribed course in opticianry in a college or university approved by the secretary whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the supervision of a licensed dispensing optician, optometrist, or ophthalmologist: PROVIDED, That persons practicing under this section must be clearly identified as students;

(3) Be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in an optical office, laboratory, or shop;

(4) Be construed to prohibit an unlicensed person from engaging in the sale of spectacles, eyeglasses, magnifying glasses, goggles, sunglasses, telescopes, binoculars, or any such articles which are completely preassembled and sold only as merchandise;

(5) Be construed to authorize or permit a licensee hereunder to hold himself or herself out as being able to, or to offer to, or to undertake to attempt, by any manner of means, to examine or exercise eyes, diagnose, treat, correct, relieve,

operate, or prescribe for any human ailment, deficiency, deformity, disease, or injury. [2011 c 336 § 479; 2010 c 16 § 1; 1957 c 43 § 1.]

18.34.020 Definitions. The term "secretary" wherever used in this chapter shall mean the secretary of health of the state of Washington. The term "apprentice" wherever used in this chapter shall mean a person who shall be designated an apprentice in the records of the secretary at the request of a physician, registered optometrist, or licensee hereunder, who shall thereafter be the primary supervisor of the apprentice. The apprentice may thereafter receive from a physician, registered optometrist, or licensee hereunder training and direct supervision in the work of a dispensing optician. [1995 c 178 § 1; 1991 c 3 § 74; 1979 c 158 § 37; 1957 c 43 § 2.]

18.34.030 Apprentices. No licensee hereunder may have more than two apprentices in training or under their direct supervision at any one time. However, the primary supervisor shall be responsible for the acts of his or her apprentices in the performance of their work in the apprenticeship program and provide the majority of the training and direct supervision received by the apprentice. Apprentices shall complete their apprenticeship in six years and shall not work longer as an apprentice unless the secretary determines, after a hearing, that the apprentice was prevented by causes beyond his or her control from completing his or her apprenticeship and becoming a licensee hereunder in six years. [1995 c 178 § 2; 1991 c 3 § 75; 1957 c 43 § 3.]

18.34.050 Examining committee—Compensation and travel expenses. The examining committee shall consist of three persons primarily engaged in the business of dispensing opticians and who currently hold a valid license under this chapter. Members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 32; 1957 c 43 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

18.34.060 Dispensing optician. A dispensing optician is a person who prepares duplications of, or prepares and dispenses lenses, spectacles, eyeglasses and/or appurtenances thereto to the intended wearers thereof on written prescriptions from physicians or optometrists, and in accordance with such prescriptions, measures, adapts, adjusts and fabricates such lenses, spectacles, eyeglasses and/or appurtenances thereto to the human face for the aid or correction of visual or ocular anomalies of the human eye: PROVIDED, HOWEVER, That contact lenses may be fitted only upon a written prescription of a physician or optometrist. [1957 c 43 § 6.]

18.34.070 Applicants—Eligibility for examination—Fee. Any applicant for a license shall be examined if he or she pays an examination fee determined by the secretary as provided in RCW 43.70.250 and certifies under oath that he or she:

- (1) Is eighteen years or more of age; and
- (2) Has graduated from an accredited high school; and
- (3) Is of good moral character; and

(4) Has either:

- (a) Had at least three years of apprenticeship training; or
- (b) Successfully completed a prescribed course in opticianry in a college or university approved by the secretary; or
- (c) Been principally engaged in practicing as a dispensing optician not in the state of Washington for five years. [2004 c 262 § 5; 1991 c 3 § 76; 1985 c 7 § 29; 1975 1st ex.s. c 30 § 34; 1971 ex.s. c 292 § 22; 1957 c 43 § 7.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

18.34.080 Examination—Issuance and display of license. The examination shall determine whether the applicant has a thorough knowledge of the principles governing the practice of a dispensing optician which is hereby declared necessary for the protection of the public health. The examining committee may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The secretary shall license successful examinees and the license shall be conspicuously displayed in the place of business of the licensee. [1995 c 198 § 3; 1991 c 3 § 77; 1957 c 43 § 8.]

18.34.110 Existing practitioner—Fee. The secretary shall issue a license without examination to any person who makes application therefor within six months after June 12, 1957, pays a fee of fifty dollars and certifies under oath that he or she is of good moral character and has been actually and principally engaged in the practice of a dispensing optician in the state of Washington for a period of not less than six months immediately preceding June 12, 1957. [1991 c 3 § 78; 1957 c 43 § 11.]

18.34.115 Credentialing by endorsement. An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 332 § 33.]

Additional notes found at www.leg.wa.gov

18.34.120 Renewal registration fee—Continuing education. Each licensee hereunder shall pay a renewal registration fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The secretary may adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal. [1996 c 191 § 18; 1991 c 3 § 79; 1984 c 279 § 52; 1975 1st ex.s. c 30 § 35; 1957 c 43 § 12.]

Additional notes found at www.leg.wa.gov

18.34.136 Application of uniform disciplinary act. 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. [1987 c 150 § 19; 1986 c 259 § 45.]

Additional notes found at www.leg.wa.gov

18.34.141 License required. No person may practice or represent himself or herself as a dispensing optician without first having a valid license to do so. [1987 c 150 § 20.]

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Additional notes found at www.leg.wa.gov

18.34.151 Licensing requirements—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 2.]

Chapter 18.35 RCW

HEARING AND SPEECH SERVICES

Sections

- 18.35.005 Regulation of health care professions—Criteria.
- 18.35.008 Intent.
- 18.35.010 Definitions.
- 18.35.020 Hearing instruments—Dispensing—License, certificate, permit required.
- 18.35.030 Receipt required—Contents.
- 18.35.040 Applicants—Generally.
- 18.35.050 Examination—Required—When offered—Review.
- 18.35.060 Interim permit—Issuance.
- 18.35.070 Examination—Contents—Tests.
- 18.35.080 License—Generally.
- 18.35.085 Credentialing by endorsement.
- 18.35.090 Compliance with administrative procedures, requirements—Display of license—Continuing education, competency standards.
- 18.35.095 Licensure or certification—Inactive status.
- 18.35.100 Place of business.
- 18.35.105 Records—Contents.
- 18.35.110 Disciplinary action—Grounds.
- 18.35.120 Disciplinary action—Additional grounds.
- 18.35.140 Powers and duties of department.
- 18.35.150 Board of hearing and speech—Created—Membership—Qualifications—Terms—Vacancies—Meetings—Compensation—Travel expenses.
- 18.35.161 Board—Powers and duties.
- 18.35.162 Unprofessional conduct.
- 18.35.172 Application of uniform disciplinary act.
- 18.35.175 Unlawful sales practices.
- 18.35.180 Application of Consumer Protection Act and False Advertising Act.
- 18.35.185 Rescission of transaction—Requirements—Notice.
- 18.35.190 Valid license prerequisite to suits.
- 18.35.195 Exemptions.
- 18.35.200 Other laws unaffected.
- 18.35.205 Chapter exclusive.
- 18.35.220 Violations—Cease and desist orders—Notice—Injunctions.
- 18.35.230 Violations—Registered agent—Service.
- 18.35.240 Violations—Surety bond or security in lieu of surety bonds.
- 18.35.250 Violations—Remedies—Actions on bond or security.
- 18.35.260 Misrepresentation of credentials.
- 18.35.270 Assistant ratios—Data collection.
- 18.35.280 Delegation to assistive personnel—Supervisor duties.
- 18.35.290 Delegation to assistive personnel—Assistant duties.
- 18.35.300 No requirement to contract with speech-language pathology assistant.
- 18.35.903 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

18.35.005 Regulation of health care professions—Criteria. See chapter 18.120 RCW.

18.35.008 Intent. It is the intent of this chapter to protect the public health, safety, and welfare; to protect the public from being misled by incompetent, unethical, and unauthorized persons; and to assure the availability of hearing and speech services of high quality to persons in need of such services. [1996 c 200 § 1.]

18.35.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal to noise ratio for the listener, reduce interference from noise in the background, and enhance hearing levels at a distance by picking up sound from as close to source as possible and sending it directly to the ear of the listener, excluding hearing instruments as defined in this chapter.

(2) "Audiology" means the application of principles, methods, and procedures related to hearing and the disorders of hearing and to related language and speech disorders, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity, function, processing, or vestibular function, the application of aural habilitation, rehabilitation, and appropriate devices including fitting and dispensing of hearing instruments, and cerumen management to treat such disorders.

(3) "Board" means the board of hearing and speech.

(4) "Department" means the department of health.

(5) "Direct supervision" means the supervising speech-language pathologist, hearing aid specialist, or audiologist is on-site and in view during the procedures or tasks. The board shall develop rules outlining the procedures or tasks allowable under direct supervision.

(6) "Establishment" means any permanent site housing a person engaging in the practice of fitting and dispensing of hearing instruments by a hearing aid specialist or audiologist; where the client can have personal contact and counsel during the firm's business hours; where business is conducted; and the address of which is given to the state for the purpose of bonding.

(7) "Facility" means any permanent site housing a person engaging in the practice of speech-language pathology and/or audiology, excluding the sale, lease, or rental of hearing instruments.

(8) "Fitting and dispensing of hearing instruments" means the sale, lease, or rental or attempted sale, lease, or rental of hearing instruments together with the selection and modification of hearing instruments and the administration of nondiagnostic tests as specified by RCW 18.35.110 and the use of procedures essential to the performance of these functions; and includes recommending specific hearing instrument systems, specific hearing instruments, or specific hearing instrument characteristics, the taking of impressions for ear molds for these purposes, the use of nondiagnostic procedures and equipment to verify the appropriateness of the hearing instrument fitting, and hearing instrument orientation. The fitting and dispensing of hearing instruments as defined by this chapter may be equally provided by a licensed hearing aid specialist or licensed audiologist.

(9) "Good standing" means a licensed hearing aid specialist, licensed audiologist, licensed speech-language pathologist, or certified speech-language pathology assistant whose license or certification has not been subject to sanctions pursuant to chapter 18.130 RCW or sanctions by other states, territories, or the District of Columbia in the last two years.

(10) "Hearing aid specialist" means a person who is licensed to engage in the practice of fitting and dispensing of hearing instruments and meets the qualifications of this chapter.

(11) "Hearing health care professional" means an audiologist or hearing aid specialist licensed under this chapter or a physician specializing in diseases of the ear licensed under chapter 18.71 RCW.

(12) "Hearing instrument" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices.

(13) "Indirect supervision" means the procedures or tasks are performed under the speech-language pathologist, the hearing aid specialist, or the audiologist's overall direction and control, but the speech-language pathologist, hearing aid specialist, or audiologist's presence is not required during the performance of the procedures or tasks. The board shall develop rules outlining the procedures or tasks allowable under indirect supervision.

(14) "Interim permit holder" means a person who holds the permit created under RCW 18.35.060 and who practices under the supervision of a licensed hearing aid specialist, licensed speech-language pathologist, or licensed audiologist.

(15) "Licensed audiologist" means a person who is licensed by the department to engage in the practice of audiology and meets the qualifications in this chapter.

(16) "Licensed speech-language pathologist" means a person who is licensed by the department to engage in the practice of speech-language pathology and meets the qualifications of this chapter.

(17) "Secretary" means the secretary of health.

(18) "Speech-language pathology" means the application of principles, methods, and procedures related to the development and disorders, whether of organic or nonorganic origin, that impede oral, pharyngeal, or laryngeal sensorimotor competencies and the normal process of human communication including, but not limited to, disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition/communication, and the application of augmentative communication treatment and devices for treatment of such disorders.

(19) "Speech-language pathology assistant" means a person who is certified by the department to provide speech-language pathology services under the direction and supervision of a licensed speech-language pathologist or speech-language pathologist certified as an educational staff associate by the superintendent of public instruction, and meets all of the requirements of this chapter. [2014 c 189 § 2; 2009 c 301 § 2; 2005 c 45 § 1; 2002 c 310 § 1; 1998 c 142 § 1; 1996 c 200 § 2; 1993 c 313 § 1; 1991 c 3 § 80; 1983 c 39 § 1; 1979 c 158 § 38; 1973 1st ex.s. c 106 § 1.]

Work group—2014 c 189: "(1) The department of health with the board of hearing and speech, and representatives from the community and technical colleges, must review the opportunity to establish an interim work-based learning permit, or similar apprenticeship opportunity, to provide an additional licensing pathway for hearing aid specialist applicants.

(2) The group shall consider the following areas:

(a) The opportunity to provide a work-based learning permit for applicants that either have a two-year or four-year degree in a field of study approved by the board from an accredited institution of higher education, or are currently enrolled in a two-year or four-year degree program in a field of study approved by the board in an accredited institution of higher education with no more than one full-time academic year remaining in his or her course of study;

(b) The criteria for providing a designation of a board-approved licensed hearing aid specialist or board-approved licensed audiologist to act as the applicant's supervisor;

(c) The recommended duration of an interim work-based learning permit or apprenticeship;

(d) Recommendations for a work-based learning permit or apprenticeship and opportunities to offer a program through a partnership with a private business and/or through a partnership with accredited institutions of higher education and a sponsoring private business;

(e) Recommendations for the learning pathways or academic components that should be required in any work-based learning program, including the specific training elements that must be completed, including, but not limited to, audiometric testing, counseling regarding hearing examinations, hearing instrument selection, ear mold impressions, hearing instrument fitting and follow-up care, and business practices including ethics, regulations, and sanitation and infection control; and

(f) Recommendations for the direct supervision of a work-based learning permit or apprenticeship, including the number of persons a hearing aid specialist or audiologist may supervise, and other considerations.

(3) The work group must submit recommendations to the health committees of the legislature by December 1, 2014." [2014 c 189 § 1.]

Alphabetization—2009 c 301 § 2: "The code reviser is directed to put the defined terms in RCW 18.35.010 in alphabetical order." [2009 c 301 § 14.]

Intent—2009 c 301: "It is declared to be the policy of this state that, in order to safeguard the public health, safety, and welfare, to protect the public from incompetent, unscrupulous, unauthorized persons and unprofessional conduct, and to ensure the availability of the highest possible standards of speech-language pathology services to the communicatively impaired people of this state, it is necessary to provide regulatory authority over persons offering speech-language pathology services as speech-language pathology assistants." [2009 c 301 § 1.]

Implementation—2009 c 301: "In order to allow for adequate time to establish the program created in this act, the provisions of this act must be implemented beginning one year after July 26, 2009." [2009 c 301 § 15.]

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Additional notes found at www.leg.wa.gov

18.35.020 Hearing instruments—Dispensing—License, certificate, permit required. (1) No person shall engage in the fitting and dispensing of hearing instruments or imply or represent that he or she is engaged in the fitting and dispensing of hearing instruments unless he or she is a licensed hearing aid specialist, or a licensed audiologist or holds an interim permit issued by the department as provided in this chapter and is an owner or employee of an establishment that is bonded as provided by RCW 18.35.240. The owner or manager of an establishment that dispenses hearing instruments is responsible under this chapter for all transactions made in the establishment name or conducted on its premises by agents or persons employed by the establishment engaged in fitting and dispensing of hearing instruments. Every establishment that fits and dispenses shall have in its employ at least one licensed hearing aid specialist or licensed audiologist at all times, and shall annually submit proof that all testing equipment at that establishment that is required by the board to be calibrated has been properly calibrated.

(2) Effective January 1, 2003, no person shall engage in the practice of audiology or imply or represent that he or she is engaged in the practice of audiology unless he or she is a

licensed audiologist or holds an audiology interim permit issued by the department as provided in this chapter. Audiologists who are certified as educational staff associates by the Washington professional educator standards board are excluded unless they elect to become licensed under this chapter. However, a person certified by the state board of education as an educational staff associate who practices outside the school setting must be a licensed audiologist.

(3) Effective January 1, 2003, no person shall engage in the practice of speech-language pathology or imply or represent that he or she is engaged in the practice of speech-language pathology unless he or she is a licensed speech-language pathologist or holds a speech-language pathology interim permit issued by the department as provided in this chapter. Speech-language pathologists who are certified as educational staff associates by the state board of education are excluded unless they elect to become licensed under this chapter. However, a person certified by the state board of education as an educational staff associate who practices outside the school setting must be a licensed speech-language pathologist. [2014 c 189 § 3; 2006 c 263 § 801; 2005 c 45 § 2; 2002 c 310 § 2; 1998 c 142 § 2; 1996 c 200 § 3; 1989 c 198 § 1; 1983 c 39 § 2; 1973 1st ex.s c 106 § 2.]

Work group—2014 c 189: See note following RCW 18.35.010.

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Additional notes found at www.leg.wa.gov

18.35.030 Receipt required—Contents. Any person who engages in fitting and dispensing of hearing instruments shall provide to each person who enters into an agreement to purchase a hearing instrument a receipt at the time of the agreement containing the following information:

(1) The seller's name, signature, license, or permit number, address, and phone number of his or her regular place of business;

(2) A description of the instrument furnished, including make, model, circuit options, and the term "used" or "reconditioned" if applicable;

(3) A disclosure of the cost of all services including but not limited to the cost of testing and fitting, the actual cost of the hearing instrument furnished, the cost of ear molds if any, and the terms of the sale. These costs, including the cost of ear molds, shall be known as the total purchase price. The receipt shall also contain a statement of the purchaser's rescission rights under this chapter and an acknowledgment that the purchaser has read and understands these rights. Upon request, the purchaser shall also be supplied with a signed and dated copy of any hearing evaluation performed by the seller.

(4) At the time of delivery of the hearing instrument, the purchaser shall also be furnished with the serial number of the hearing instrument supplied. [2002 c 310 § 3; 1996 c 200 § 4; 1983 c 39 § 3; 1973 1st ex.s c 106 § 3.]

Additional notes found at www.leg.wa.gov

18.35.040 Applicants—Generally. (1) An applicant for licensure as a hearing aid specialist must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall be issued a license under the provisions of this chapter

if the applicant has not committed unprofessional conduct as specified by chapter 18.130 RCW, and:

(a)(i) Satisfactorily completes the hearing aid specialist examination required by this chapter; and

(ii) Satisfactorily completes:

(A) A minimum of a two-year degree program in hearing aid specialist instruction. The program must be approved by the board;

(B) A two-year or four-year degree in a field of study approved by the board from an accredited institution, a nine-month board-approved certificate program offered by a board-approved hearing aid specialist program and the practical examination approved by the board. The practical examination must be given at least quarterly, as determined by the board. The department may hire licensed industry experts approved by the board to proctor the examination; or

(b) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state as provided in (a) of this subsection; or

(c)(i) Holds a current, unsuspended, unrevoked license from another jurisdiction, has been actively practicing as a licensed hearing aid specialist in another jurisdiction for at least forty-eight of the last sixty months, and submits proof of completion of advance certification from either the international hearing society or the national board for certification in hearing instrument sciences; and

(ii) Satisfactorily completes the hearing aid specialist examination required by this chapter or a substantially equivalent examination approved by the board.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(2)(a) An applicant for licensure as a speech-language pathologist or audiologist must have the following minimum qualifications:

(i) Has not committed unprofessional conduct as specified by the uniform disciplinary act;

(ii) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

(iii) Has completed postgraduate professional work experience approved by the board.

(b) All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

(c) The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(3) An applicant for certification as a speech-language pathology assistant shall pay a fee determined by the secretary as provided in RCW 43.70.250 and must have the following minimum qualifications:

(a) An associate of arts or sciences degree, or a certificate of proficiency, from a speech-language pathology assis-

tant program from an institution of higher education that is approved by the board, as is evidenced by the following:

(i) Transcripts showing forty-five quarter hours or thirty semester hours of speech-language pathology coursework; and

(ii) Transcripts showing forty-five quarter hours or thirty semester hours of general education credit; or

(b) A bachelor of arts or bachelor of sciences degree, as evidenced by transcripts, from a speech, language, and hearing program from an institution of higher education that is approved by the board. [2014 c 189 § 4; 2009 c 301 § 3; 2007 c 271 § 1; 2002 c 310 § 4; 1998 c 142 § 3; 1996 c 200 § 5; 1991 c 3 § 81; 1989 c 198 § 2; 1985 c 7 § 30; 1983 c 39 § 4; 1975 1st ex.s. c 30 § 36; 1973 1st ex.s. c 106 § 4.]

Effective date—2014 c 189 § 4: "Section 4 of this act takes effect July 1, 2015." [2014 c 189 § 19.]

Work group—2014 c 189: See note following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: "An applicant for certification as a speech-language pathology assistant may meet the requirements for certification as a speech-language pathology assistant if, within one year of July 1, 2010, he or she submits a competency checklist to the board of hearing and speech, and is employed under the supervision of a speech-language pathologist for at least six hundred hours within the last three years as defined by the board by rule." [2010 c 65 § 5; 2009 c 301 § 11.]

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.050 Examination—Required—When offered—Review. Except as otherwise provided in this chapter an applicant for license shall appear at a time and place and before such persons as the department may designate to be examined by written or practical tests, or both. Examinations in hearing aid specialist, speech-language pathology, and audiology shall be held within the state at least once a year. The examinations shall be reviewed annually by the board and the department, and revised as necessary. The examinations shall include appropriate subject matter to ensure the competence of the applicant. Nationally recognized examinations in the fields of fitting and dispensing of hearing instruments, speech-language pathology, and audiology may be used to determine if applicants are qualified for licensure. An applicant who fails an examination may apply for reexamination upon payment of a reexamination fee. The hearing aid specialist reexamination fee for hearing aid specialists and audiologists shall be set by the secretary under RCW 43.70.250. [2014 c 189 § 5; 2002 c 310 § 5; 1996 c 200 § 6; 1993 c 313 § 2; 1989 c 198 § 3; 1983 c 39 § 5; 1973 1st ex.s. c 106 § 5.]

Work group—2014 c 189: See note following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.060 Interim permit—Issuance. The department, upon approval by the board, shall issue an interim permit authorizing an applicant for speech-language pathologist licensure or audiologist licensure who, except for the postgraduate professional experience and the examination requirements, meets the academic and practicum requirements of RCW 18.35.040(2) to practice under supervision. The interim permit is valid for a period of one year from date of issuance. The board shall determine conditions for the

interim permit. [2005 c 45 § 3; 2002 c 310 § 6; 1998 c 142 § 4; 1997 c 275 § 3. Prior: 1996 c 200 § 7; 1996 c 191 § 19; 1993 c 313 § 3; 1991 c 3 § 82; 1985 c 7 § 31; 1983 c 39 § 6; 1975 1st ex.s. c 30 § 37; 1973 1st ex.s. c 106 § 6.]

Additional notes found at www.leg.wa.gov

18.35.070 Examination—Contents—Tests. The hearing aid specialist written or practical examination, or both, provided in RCW 18.35.050 shall consist of:

(1) Tests of knowledge in the following areas as they pertain to the fitting of hearing instruments:

(a) Basic physics of sound;

(b) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders; and

(c) Structure and function of hearing instruments.

(2) Tests of proficiency in the following areas as they pertain to the fitting of hearing instruments:

(a) Pure tone audiometry, including air conduction testing and bone conduction testing;

(b) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;

(c) Effective masking;

(d) Recording and evaluation of audiograms and speech audiometry to determine hearing instrument candidacy;

(e) Selection and adaptation of hearing instruments and testing of hearing instruments; and

(f) Taking ear mold impressions.

(3) Evidence of knowledge regarding the medical and rehabilitation facilities for children and adults that are available in the area served.

(4) Evidence of knowledge of grounds for revocation or suspension of license under the provisions of this chapter.

(5) Any other tests as the board may by rule establish. [2014 c 189 § 6; 1996 c 200 § 8; 1973 1st ex.s. c 106 § 7.]

Work group—2014 c 189: See note following RCW 18.35.010.

18.35.080 License—Generally. (1) The department shall license each qualified applicant who satisfactorily completes the required examinations for his or her profession and complies with administrative procedures and administrative requirements established pursuant to RCW 43.70.250 and 43.70.280.

(2) The board shall waive the requirements of RCW 18.35.040 and 18.35.050 and grant an audiology license to a person who on January 1, 2003, holds a current audiology certificate issued by the department.

(3) The board shall waive the requirements of RCW 18.35.040 and 18.35.050 and grant a speech-language pathology license to a person who on January 1, 2003, holds a current speech-language pathology certificate issued by the department. [2002 c 310 § 7; 1997 c 275 § 4. Prior: 1996 c 200 § 9; 1996 c 191 § 20; 1991 c 3 § 83; 1989 c 198 § 4; 1985 c 7 § 32; 1975 1st ex.s. c 30 § 38; 1973 1st ex.s. c 106 § 8.]

Additional notes found at www.leg.wa.gov

18.35.085 Credentialing by endorsement. An applicant holding a credential in another state, territory, or the District of Columbia may be credentialed to practice in this state without examination if the board determines that the other

state's credentialing standards are substantially equivalent to the standards in this state. [1996 c 200 § 10; 1991 c 332 § 31.]

Additional notes found at www.leg.wa.gov

18.35.090 Compliance with administrative procedures, requirements—Display of license—Continuing education, competency standards. Each person who engages in practice under this chapter shall comply with administrative procedures and administrative requirements established under RCW 43.70.250 and 43.70.280 and shall keep the license or interim permit conspicuously posted in the place of business at all times. The secretary may establish mandatory continuing education requirements and/or continued competency standards to be met by licensees or interim permit holders as a condition for license or interim permit renewal. [2002 c 310 § 8; 1998 c 142 § 5; 1997 c 275 § 5. Prior: 1996 c 200 § 11; 1996 c 191 § 21; 1991 c 3 § 84; 1989 c 198 § 5; 1985 c 7 § 33; 1983 c 39 § 7; 1973 1st ex.s. c 106 § 9.]

Additional notes found at www.leg.wa.gov

18.35.095 Licensure or certification—Inactive status.

(1) A hearing aid specialist licensed under this chapter and not actively practicing may be placed on inactive status by the department at the written request of the licensee. The board shall define by rule the conditions for inactive status licensure. In addition to the requirements of RCW 43.24.086, the licensing fee for a licensee on inactive status shall be directly related to the costs of administering an inactive license by the department. A hearing aid specialist on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the licensing fee for the licensing year, and complying with subsection (2) of this section.

(2) Hearing aid specialist inactive licensees applying for active licensure shall comply with the following: A licensee who has not fitted or dispensed hearing instruments for more than five years from the expiration of the licensee's full fee license shall retake the practical or the written, or both, hearing aid specialist examinations required under this chapter and other requirements as determined by the board. Persons who have inactive status in this state but who are actively licensed and in good standing in any other state shall not be required to take the hearing aid specialist practical examination, but must submit an affidavit attesting to their knowledge of the current Washington Administrative Code rules and Revised Code of Washington statutes pertaining to the fitting and dispensing of hearing instruments.

(3) A speech-language pathologist or audiologist licensed under this chapter, or a speech-language pathology assistant certified under this chapter, and not actively practicing either speech-language pathology or audiology may be placed on inactive status by the department at the written request of the license or certification holder. The board shall define by rule the conditions for inactive status licensure or certification. In addition to the requirements of RCW 43.24.086, the fee for a license or certification on inactive status shall be directly related to the cost of administering an inactive license or certification by the department. A person on inactive status may be voluntarily placed on active status

by notifying the department in writing, paying the remainder of the fee for the year, and complying with subsection (4) of this section.

(4) Speech-language pathologist, speech-language pathology assistant, or audiologist inactive license or certification holders applying for active licensure or certification shall comply with requirements set forth by the board, which may include completion of continuing competency requirements and taking an examination. [2014 c 189 § 7; 2009 c 301 § 4; 2002 c 310 § 9; 1996 c 200 § 12; 1993 c 313 § 12.]

Work group—2014 c 189: See note following RCW 18.35.010.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Additional notes found at www.leg.wa.gov

18.35.100 Place of business. (1) Every hearing aid specialist, audiologist, speech-language pathologist, or interim permit holder, who is regulated under this chapter, shall notify the department in writing of the regular address of the place or places in the state of Washington where the person practices or intends to practice more than twenty consecutive business days and of any change thereof within ten days of such change. Failure to notify the department in writing shall be grounds for suspension or revocation of the license or interim permit.

(2) The department shall keep a record of the places of business of persons who hold licenses or interim permits.

(3) Any notice required to be given by the department to a person who holds a license or interim permit may be given by mailing it to the address of the last establishment or facility of which the person has notified the department, except that notice to a licensee or interim permit holder of proceedings to deny, suspend, or revoke the license or interim permit shall be by certified or registered mail or by means authorized for service of process. [2014 c 189 § 8; 2002 c 310 § 10; 1998 c 142 § 6; 1996 c 200 § 13; 1983 c 39 § 8; 1973 1st ex.s. c 106 § 10.]

Work group—2014 c 189: See note following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.105 Records—Contents. Each licensee and interim permit holder under this chapter shall keep records of all services rendered for a minimum of three years. These records shall contain the names and addresses of all persons to whom services were provided. Hearing aid specialists, audiologists, and interim permit holders shall also record the date the hearing instrument warranty expires, a description of the services and the dates the services were provided, and copies of any contracts and receipts. All records, as required pursuant to this chapter or by rule, shall be owned by the establishment or facility and shall remain with the establishment or facility in the event the licensee changes employment. If a contract between the establishment or facility and the licensee provides that the records are to remain with the licensee, copies of such records shall be provided to the establishment or facility. [2014 c 189 § 9; 2002 c 310 § 11; 1998 c 142 § 7; 1996 c 200 § 14; 1989 c 198 § 6; 1983 c 39 § 16.]

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Work group—2014 c 189: See note following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.110 Disciplinary action—Grounds. In addition to causes specified under RCW 18.130.170 and 18.130.180, any person licensed or holding an interim permit under this chapter may be subject to disciplinary action by the board for any of the following causes:

(1) For unethical conduct in dispensing hearing instruments. 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) 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 instrument;

(c) Advertising a particular model, type, or kind of hearing instrument 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;

(d) Falsifying hearing test or evaluation results;

(e)(i) Whenever any of the following conditions are found or should have been found to exist either from observations by the licensee or interim permit holder or on the basis of information furnished by the prospective hearing instrument user prior to fitting and dispensing a hearing instrument to any such prospective hearing instrument user, failing to advise that prospective hearing instrument 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 board 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 instrument user from seeking such medical opinion prior to the fitting and dispensing of a hearing instrument. No such referral for medical opinion need be made by any licensed hearing aid specialist, licensed audiologist, or interim permit

holder in the instance of replacement only of a hearing instrument which has been lost or damaged beyond repair within twelve months of the date of purchase. The licensed hearing aid specialist, licensed audiologist, or interim permit holder or their employees or putative agents shall obtain a signed statement from the hearing instrument 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 licensed hearing aid specialist, licensed audiologist, or interim permit holder shall maintain a copy of either the physician's statement showing that the prospective hearing instrument user has had a medical evaluation within the previous six months or the statement waiving medical evaluation, for a period of three years after the purchaser's receipt of a hearing instrument. Nothing in this section required to be performed by a licensee or interim permit holder shall mean that the licensee or interim permit holder 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 instrument to any person under eighteen years of age who has not been examined and cleared for hearing instrument 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 licensed hearing aid specialist or licensed audiologist 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 instrument 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 instruments replaced within twelve months of their purchase;

(f) Representing that the services or advice of a person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathic medicine 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 instruments when that is not true, or using the word "doctor," "clinic," or other like words, abbreviations, or symbols which tend to connote a medical or osteopathic medicine and surgery profession when such use is not accurate;

(g) Permitting another to use his or her license or interim permit;

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

(i) Representing or implying that a hearing instrument 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

(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 hearing aid specialist, audiologist, or interim permit holder, or to influence any person to refrain from dealing in the products of competitors.

(2) Engaging in any unfair or deceptive practice or unfair method of competition in trade within the meaning of RCW 19.86.020.

(3) Aiding or abetting any violation of the rebating laws as stated in chapter 19.68 RCW. [2014 c 189 § 10; 2002 c 310 § 12; 1998 c 142 § 8. Prior: 1996 c 200 § 15; 1996 c 178 § 1; 1993 c 313 § 4; 1987 c 150 § 22; 1983 c 39 § 9; 1973 1st ex.s. c 106 § 11.]

Work group—2014 c 189: See note following RCW 18.35.010.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

Additional notes found at www.leg.wa.gov

18.35.120 Disciplinary action—Additional grounds.

A licensee or interim permit holder under this chapter may also be subject to disciplinary action if the licensee or interim permit holder:

(1) Is found guilty in any court of any crime involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and ten years have not elapsed since the date of the conviction; or

(2) Has a judgment entered against him or her in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and five years have not elapsed since the date of the entry of the final judgment in the action, but a license shall not be issued unless the judgment debt has been discharged; or

(3) Has a judgment entered against him or her under chapter 19.86 RCW and two years have not elapsed since the entry of the final judgment; but a license shall not be issued unless there has been full compliance with the terms of such judgment, if any. The judgment shall not be grounds for denial, suspension, nonrenewal, or revocation of a license unless the judgment arises out of and is based on acts of the applicant, licensee, or employee of the licensee; or

(4) Commits unprofessional conduct as defined in RCW 18.130.180 of the uniform disciplinary act. [2002 c 310 § 13; 1998 c 142 § 9; 1996 c 200 § 17; 1983 c 39 § 10; 1973 1st ex.s. c 106 § 12.]

Penalties authorized: RCW 18.35.161.

Additional notes found at www.leg.wa.gov

18.35.140 Powers and duties of department. The powers and duties of the department, in addition to the powers and duties provided under other sections of this chapter, are as follows:

(1) To provide space necessary to carry out the examination set forth in RCW 18.35.070 of applicants for hearing aid specialist licenses or audiology licenses.

(2) To authorize all disbursements necessary to carry out the provisions of this chapter.

(3) To require the periodic examination of testing equipment, as defined by the board, and to carry out the periodic inspection of facilities or establishments of persons who are licensed under this chapter, as reasonably required within the discretion of the department.

(4) To appoint advisory committees as necessary.

(5) To keep a record of proceedings under this chapter and a register of all persons licensed or holding interim permits under this chapter. The register shall show the name of every living licensee or interim permit holder for hearing aid specialist, every living licensee or interim permit holder for speech-language pathology, and every living licensee or interim permit holder for audiology, with his or her last known place of residence and the date and number of his or her license or interim permit. [2014 c 189 § 11; 2002 c 310 § 14; 1998 c 142 § 10; 1996 c 200 § 18; 1993 c 313 § 5; 1983 c 39 § 11; 1973 1st ex.s. c 106 § 14.]

Work group—2014 c 189: See note following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.150 Board of hearing and speech—Created—Membership—Qualifications—Terms—Vacancies—Meetings—Compensation—Travel expenses. (1) There is created hereby the board of hearing and speech to govern the three separate professions: Hearing aid specialist, audiology, and speech-language pathology. The board shall consist of eleven members to be appointed by the governor.

(2) Members of the board shall be residents of this state. Three members shall represent the public and shall have an interest in the rights of consumers of health services, and shall not be or have been a member of, or married to a member of, another licensing board, a licensee of a health occupation board, an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility. Two members shall be hearing aid specialists who are licensed under this chapter, have at least five years of experience in the practice of hearing instrument fitting and dispensing, and must be actively engaged in fitting and dispensing within two years of appointment. Two members of the board shall be audiologists licensed under this chapter who have at least five years of experience in the practice of audiology and must be actively engaged in practice within two years of appointment. Two members of the board shall be speech-language pathologists licensed under this chapter who have at least five years of experience in the practice of speech-language pathology and must be actively engaged in practice within two years of appointment. One advisory nonvoting member shall be a speech-language pathology assistant certified in Washington. One advisory nonvoting member shall be a medical physician licensed in the state of Washington.

(3) The term of office of a member is three years. Of the initial appointments, one hearing aid specialist, one speech-language pathologist, one audiologist, and one consumer shall be appointed for a term of two years, and one hearing aid specialist, one speech-language pathologist, one audiologist, and two consumers shall be appointed for a term of three years. Thereafter, all appointments shall be made for expired terms. No member shall be appointed to serve more than two

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consecutive terms. A member shall continue to serve until a successor has been appointed. The governor shall either reappoint the member or appoint a successor to assume the member's duties at the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) The chair shall rotate annually among the hearing aid specialists, speech-language pathologists, audiologists, and public members serving on the board. In the absence of the chair, the board shall appoint an interim chair. In event of a tie vote, the issue shall be brought to a second vote and the chair shall refrain from voting.

(5) The board shall meet at least once each year, at a place, day and hour determined by the board, unless otherwise directed by a majority of board members. The board shall also meet at such other times and places as are requested by the department or by three members of the board. A quorum is a majority of the board. A hearing aid specialist, speech-language pathologist, and audiologist must be represented. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(6) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The governor may remove a member of the board for cause at the recommendation of a majority of the board. [2014 c 189 § 12; 2009 c 301 § 5; 2002 c 310 § 15; 1996 c 200 § 19; 1993 c 313 § 6; 1989 c 198 § 7; 1984 c 287 § 33; 1983 c 39 § 12; 1975-'76 2nd ex.s. c 34 § 35; 1973 1st ex.s. c 106 § 15.]

Work group—2014 c 189: See note following RCW 18.35.010.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Secretary of health or designee as ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

Additional notes found at www.leg.wa.gov

18.35.161 Board—Powers and duties. The board shall have the following powers and duties:

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

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

(3) To develop, approve, and administer or supervise the administration of examinations to applicants for licensure under this chapter;

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

(5) To pass upon the qualifications of applicants for licensure or interim permits and to certify to the secretary;

(6) To recommend requirements for continuing education and continuing competency requirements as a prerequisite to renewing a license or certification under this chapter;

(7) To keep an official record of all its proceedings. The record is evidence of all proceedings of the board that are set forth in this record;

(8) To adopt rules, if the board finds it appropriate, in response to questions put to it by professional health associations, hearing aid specialists, audiologists, speech-language pathologists, interim permit holders, and consumers in this state; and

(9) To adopt rules relating to standards of care relating to hearing aid specialists or audiologists, including the dispensing of hearing instruments, and relating to speech-language pathologists, including dispensing of communication devices. [2014 c 189 § 13; 2010 c 65 § 4; 2002 c 310 § 16; 1998 c 142 § 11; 1996 c 200 § 20; 1993 c 313 § 7; 1987 c 150 § 23; 1983 c 39 § 13.]

Work group—2014 c 189: See note following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.162 Unprofessional conduct. Violation of the standards adopted by rule under RCW 18.35.161 is unprofessional conduct under this chapter and chapter 18.130 RCW. [1996 c 200 § 21.]

18.35.172 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses and interim permits, and the discipline of licensees and permit holders under this chapter. [2002 c 310 § 17; 1998 c 142 § 12; 1996 c 200 § 22; 1987 c 150 § 21.]

Additional notes found at www.leg.wa.gov

18.35.175 Unlawful sales practices. It is unlawful to fit or dispense a hearing instrument to a resident of this state if the attempted sale or purchase is offered or made by telephone or mail order and there is no face-to-face contact to test or otherwise determine the needs of the prospective purchaser. This section does not apply to the sale of hearing instruments by wholesalers to licensees under this chapter. [2002 c 310 § 18; 1996 c 200 § 23; 1983 c 39 § 21.]

Additional notes found at www.leg.wa.gov

18.35.180 Application of Consumer Protection Act and False Advertising Act. Acts and practices in the course of trade in the promoting, advertising, selling, fitting, and dispensing of hearing instruments shall be subject to the provisions of chapter 19.86 RCW (Consumer Protection Act) and RCW 9.04.050 (False Advertising Act) and any violation of the provisions of this chapter shall constitute violation of RCW 19.86.020. [1996 c 200 § 24; 1973 1st ex.s. c 106 § 18.]

18.35.185 Rescission of transaction—Requirements—Notice. (1) In addition to any other rights and remedies a purchaser may have, the purchaser of a hearing instrument shall have the right to rescind the transaction for other than the licensed hearing aid specialist, licensed audiologist, or interim permit holder's breach if:

(a) The purchaser, for reasonable cause, returns the hearing instrument or holds it at the licensed hearing aid specialist, licensed audiologist, or interim permit holder's disposal, if the hearing instrument is in its original condition less normal wear and tear. "Reasonable cause" shall be defined by the board 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 about wearing a hearing instrument; and

(b) The purchaser sends notice of the cancellation by certified mail, return receipt requested, to the establishment employing the licensed hearing aid specialist, licensed audiologist, or interim permit holder at the time the hearing instrument was originally purchased, and the notice is posted not later than thirty days following the date of delivery, but the purchaser and the licensed hearing aid specialist, licensed audiologist, or interim permit holder may extend the deadline for posting of the notice of rescission by mutual, written agreement. In the event the hearing instrument develops a problem which qualifies as a reasonable cause for rescission or which prevents the purchaser from evaluating the hearing instrument, and the purchaser notifies the establishment employing the licensed hearing aid specialist, licensed audiologist, or interim permit holder of the problem during the thirty days following the date of delivery and documents such notification, the deadline for posting the notice of rescission shall be extended by an equal number of days as those between the date of the notification of the problem to the date of notification of availability for redeliveries. Where the hearing instrument is returned to the licensed hearing aid specialist, licensed audiologist, or interim permit holder for any inspection for modification or repair, and the licensed hearing aid specialist, licensed audiologist, or interim permit holder has notified the purchaser that the hearing instrument is available for redelivery, and where the purchaser has not responded by either taking possession of the hearing instrument or instructing the licensed hearing aid specialist, licensed audiologist, or interim permit holder to forward it to the purchaser, then the deadline for giving notice of the rescission shall extend no more than seven working days after this notice of availability.

(2) If the transaction is rescinded under this section or as otherwise provided by law and the hearing instrument is returned to the licensed hearing aid specialist, licensed audiologist, or interim permit holder, the licensed hearing aid specialist, licensed audiologist, or interim permit holder shall refund to the purchaser any payments or deposits for that hearing instrument. However, the licensed hearing aid specialist, licensed audiologist, or interim permit holder may retain, for each hearing instrument, fifteen percent of the total purchase price or one hundred twenty-five dollars, whichever is less. After December 31, 1996, the rescission amount shall be determined by the board. The licensed hearing aid specialist, licensed audiologist, or interim permit holder shall also return any goods traded in contemplation of the sale, less any costs incurred by the licensed hearing aid specialist, licensed audiologist, or interim permit holder in making those goods ready for resale. The refund shall be made within ten business days after the rescission. The buyer shall incur no additional liability for such rescission.

(3) For the purposes of this section, the purchaser shall have recourse against the bond held by the establishment entering into a purchase agreement with the buyer, as provided by RCW 18.35.240. [2014 c 189 § 14; 2002 c 310 § 19; 1998 c 142 § 13; 1996 c 200 § 25; 1993 c 313 § 9; 1989 c 198 § 12.]

Work group—2014 c 189: See note following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.190 Valid license prerequisite to suits. In addition to remedies otherwise provided by law, in any action brought by or on behalf of a person required to be licensed or to hold an interim permit under this chapter, or by any assignee or transferee, it shall be necessary to allege and prove that the licensee or interim permit holder at the time of the transaction held a valid license or interim permit as required by this chapter, and that such license or interim permit has not been suspended or revoked pursuant to RCW 18.35.110, 18.35.120, or 18.130.160. [2002 c 310 § 20; 1998 c 142 § 14; 1996 c 200 § 26; 1989 c 198 § 8; 1987 c 150 § 24; 1983 c 39 § 14; 1973 1st ex.s. c 106 § 19.]

Additional notes found at www.leg.wa.gov

18.35.195 Exemptions. (1) This chapter shall not apply to military or federal government employees.

(2) This chapter does not prohibit or regulate:

(a) Fitting or dispensing by students enrolled in a board-approved program who are directly supervised by a licensed hearing aid specialist, a licensed audiologist under the provisions of this chapter, or an instructor at a two-year hearing aid specialist degree program that is approved by the board;

(b) Hearing aid specialists, speech-language pathologists, or audiologists of other states, territories, or countries, or the District of Columbia while appearing as clinicians of bona fide educational seminars sponsored by speech-language pathology, audiology, hearing aid specialist, medical, or other healing art professional associations so long as such activities do not go beyond the scope of practice defined by this chapter; and

(c) The practice of audiology or speech-language pathology by persons certified by the Washington professional educator standards board as educational staff associates, except for those persons electing to be licensed under this chapter. However, a person certified by the board as an educational staff associate who practices outside the school setting must be a licensed audiologist or licensed speech-language pathologist. [2014 c 189 § 15; 2006 c 263 § 802; 2005 c 45 § 4; 2002 c 310 § 21; 1998 c 142 § 15; 1996 c 200 § 27; 1983 c 39 § 22.]

Work group—2014 c 189: See note following RCW 18.35.010.

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

Additional notes found at www.leg.wa.gov

18.35.200 Other laws unaffected. The provisions of this chapter shall not exclude the application of any other law to persons or circumstances covered under this chapter. [1973 1st ex.s. c 106 § 20.]

18.35.205 Chapter exclusive. The legislature finds that the public health, safety, and welfare would best be protected

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by uniform regulation of hearing aid specialists, speech-language pathologists, speech-language pathology assistants, audiologists, and interim permit holders throughout the state. Therefore, the provisions of this chapter relating to the licensing of hearing aid specialists, speech-language pathologists, and audiologists, the certification of speech-language pathology assistants, and regulation of interim permit holders and their respective establishments or facilities is exclusive. No political subdivision of the state of Washington within whose jurisdiction a hearing aid specialist, audiologist, or speech-language pathologist establishment or facility is located may require any registrations, bonds, licenses, certificates, or interim permits of the establishment or facility or its employees or charge any fee for the same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall limit or abridge the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied on all businesses, or to levy a tax based upon the gross business conducted by any firm within the political subdivision. [2014 c 189 § 16; 2009 c 301 § 6; 2002 c 310 § 22; 1998 c 142 § 16; 1996 c 200 § 28; 1983 c 39 § 24.]

Work group—2014 c 189: See note following RCW 18.35.010.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Additional notes found at www.leg.wa.gov

18.35.220 Violations—Cease and desist orders—Notice—Injunctions. (1) If the board 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 board

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

(2) If the board 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 board, 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. [1993 c 313 § 10; 1987 c 150 § 25; 1983 c 39 § 17.]

Additional notes found at www.leg.wa.gov

18.35.230 Violations—Registered agent—Service.

(1) Each licensee or interim permit holder shall name a registered agent to accept service of process for any violation of this chapter or rule adopted under this chapter.

(2) The registered agent may be released at the expiration of one year after the license or interim permit issued under this chapter has expired or been revoked.

(3) Failure to name a registered agent for service of process for violations of this chapter or rules adopted under this chapter may be grounds for disciplinary action. [2002 c 310 § 23; 1998 c 142 § 17; 1996 c 200 § 29; 1989 c 198 § 9; 1983 c 39 § 19.]

Additional notes found at www.leg.wa.gov

18.35.240 Violations—Surety bond or security in lieu of surety bonds. (1) Every individual engaged in the fitting and dispensing of hearing instruments shall be covered by a surety bond of ten thousand dollars or more, for the benefit of any person injured or damaged as a result of any violation by the licensee or permit holder, or their employees or agents, of any of the provisions of this chapter or rules adopted by the secretary.

(2) In lieu of the surety bond required by this section, the licensee or permit holder may deposit cash or other negotiable security in a banking institution as defined in *chapter 30.04 RCW or a credit union as defined in chapter 31.12 RCW. All obligations and remedies relating to surety bonds shall apply to deposits and security filed in lieu of surety bonds.

(3) If a cash deposit or other negotiable security is filed, the licensee or permit holder shall maintain such cash or other negotiable security for one year after discontinuing the fitting and dispensing of hearing instruments.

(4) Each invoice for the purchase of a hearing instrument provided to a customer must clearly display on the first page the bond number covering the licensee or interim permit holder responsible for fitting/dispensing the hearing instrument.

(5) All licensed hearing aid specialists, licensed audiologists, and permit holders must verify compliance with the requirement to hold a surety bond or cash or other negotiable security by submitting a signed declaration of compliance upon annual renewal of their license or permit. Up to twenty-five percent of the credential holders may be randomly audited for surety bond compliance after the credential is renewed. It is the credential holder's responsibility to submit a copy of the original surety bond or bonds, or documentation that cash or other negotiable security is held in a banking institution during the time period being audited. Failure to comply with the audit documentation request or failure to supply acceptable documentation within thirty days may result in disciplinary action. [2014 c 189 § 17; 2002 c 310 § 24; 2000 c 93 § 2; (2000 c 93 § 1 expired January 1, 2003); 1998 c 142 § 18; 1996 c 200 § 30; 1993 c 313 § 11; 1991 c 3 § 85; 1989 c 198 § 10; 1983 c 39 § 18.]

*Reviser's note: Chapter 30.04 RCW was recodified as chapter 30A.04 RCW by 2014 c 37.

Work group—2014 c 189: See note following RCW 18.35.010.

Additional notes found at www.leg.wa.gov

18.35.250 Violations—Remedies—Actions on bond or security.

(1) In addition to any other legal remedies, an action may be brought in any court of competent jurisdiction upon the bond, cash deposit, or security in lieu of a surety bond required by this chapter, by any person having a claim against a licensee or interim permit holder, agent, or employee for any violation of this chapter or any rule adopted under this chapter. The aggregate liability of the surety, cash deposit, or other negotiable security to all claimants shall in no event exceed the sum of the bond. Claims shall be satisfied in the order of judgment rendered.

(2) An action upon the bond, cash deposit, or other negotiable security shall be commenced by serving and filing a complaint. [2002 c 310 § 25; 2000 c 93 § 4; (2000 c 93 § 3 expired January 1, 2003); 1998 c 142 § 19; 1996 c 200 § 31; 1991 c 3 § 86; 1989 c 198 § 11; 1983 c 39 § 20.]

Additional notes found at www.leg.wa.gov

18.35.260 Misrepresentation of credentials. (1) A person who is not a licensed hearing aid specialist may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed hearing instrument fitter/dispenser," "hearing instrument specialist," or "hearing aid fitter/dispenser," or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed hearing aid specialist.

(2) A person who is not a licensed speech-language pathologist may not represent himself or herself as being so licensed and may not use in connection with his or her name the words including "licensed speech-language pathologist" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a licensed speech-language pathologist.

(3) A person who is not a certified speech-language pathology assistant may not represent himself or herself as being so certified and may not use in connection with his or her name the words including "certified speech-language pathology assistant" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a certified speech-language pathology assistant.

(4) A person who is not a licensed audiologist may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed audiologist" or a variation, synonym, letter, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed audiologist.

(5) Nothing in this chapter prohibits a person credentialed in this state under another act from engaging in the practice for which he or she is credentialed. [2014 c 189 § 18; 2009 c 301 § 7; 2002 c 310 § 26; 1998 c 142 § 20; 1996 c 200 § 16.]

Work group—2014 c 189: See note following RCW 18.35.010.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Additional notes found at www.leg.wa.gov

18.35.270 Assistant ratios—Data collection. Recognizing the trend in utilization of speech-language pathologist assistants and audiologist assistants across practice settings, the board of hearing and speech shall, on an ongoing basis, collect data on: The number of assistants in specific practice settings; supervisor to speech-language pathologist assistant or audiologist assistant ratios; and the level of education and training of speech-language pathologist assistants and audiologist assistants. [1996 c 200 § 35.]

18.35.280 Delegation to assistive personnel—Supervisor duties. Speech-language pathologists are responsible for patient care given by assistive personnel under their supervision. A speech-language pathologist may delegate to assistive personnel selected acts, tasks, or procedures that fall within the scope of speech-language pathology practice but do not exceed the education or training of the assistive personnel. [2009 c 301 § 9.]

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

18.35.290 Delegation to assistive personnel—Assistant duties. A speech-language pathology assistant may only perform procedures or tasks delegated by the speech-language pathologist and must follow the individualized education program or treatment plan. Speech-language pathology assistants may not perform procedures or tasks that require diagnosis, evaluation, or clinical interpretation. [2009 c 301 § 10.]

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

18.35.300 No requirement to contract with speech-language pathology assistant. Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person certified as a speech-language pathology assistant under this chapter. [2009 c 301 § 12.]

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

18.35.903 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and

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applicable to individuals in state registered domestic partnerships. [2009 c 521 § 46.]

Chapter 18.36 RCW DRUGLESS HEALING

Sections

18.36.035 License required.

18.36.035 License required. No person may practice or represent himself or herself as a drugless therapist without first having a valid license to do so. [1987 c 150 § 28.]

Additional notes found at www.leg.wa.gov

Chapter 18.36A RCW NATUROPATHY

Sections

18.36A.010 Intent.
18.36A.020 Definitions.
18.36A.030 License required.
18.36A.040 Scope of practice.
18.36A.050 Application of chapter—Exemptions.
18.36A.060 Powers of secretary—Application of uniform disciplinary act.
18.36A.080 Civil immunity.
18.36A.090 Requirements for licensure.
18.36A.100 Standards for approval of educational programs.
18.36A.110 Examination for licensure.
18.36A.120 License standards for applicants from other jurisdictions—Reciprocity.
18.36A.130 Compliance with secretary's determinations.
18.36A.140 Fee for renewal, late renewal.
18.36A.150 Board of naturopathy.
18.36A.160 Board of naturopathy—Duties.
18.36A.900 Effective date—1987 c 447 §§ 1-14.

18.36A.010 Intent. The legislature finds that it is necessary to regulate the practice of naturopaths in order to protect the public health, safety, and welfare. It is the legislature's intent that only individuals who meet and maintain minimum standards of competence and conduct may provide service to the public. [1987 c 447 § 1.]

18.36A.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the board of naturopathy created in RCW 18.36A.150.

(2) "Common diagnostic procedures" means the use of venipuncture consistent with the practice of naturopathic medicine, commonly used diagnostic modalities consistent with naturopathic practice, health history taking, physical examination, radiography, examination of body orifices excluding endoscopy, laboratory medicine, and obtaining samples of human tissues, but excluding incision or excision beyond that which is authorized as a minor office procedure.

(3) "Department" means the department of health.

(4) "Educational program" means an accredited program preparing persons for the practice of naturopathic medicine.

(5) "Homeopathy" means a system of medicine based on the use of infinitesimal doses of medicines capable of producing symptoms similar to those of the disease treated, as listed in the homeopathic pharmacopeia of the United States.

(6) "Hygiene and immunization" means the use of such preventative techniques as personal hygiene, asepsis, public health, and immunizations, to the extent allowed by rule.

(7) "Manual manipulation" or "mechanotherapy" means manipulation of a part or the whole of the body by hand or by mechanical means.

(8) "Minor office procedures" means care and procedures incident thereto of superficial lacerations, lesions, and abrasions, and the removal of foreign bodies located in superficial structures, not to include the eye; and the use of antiseptics and topical or local anesthetics in connection therewith. "Minor office procedures" also includes intramuscular, intravenous, subcutaneous, and intradermal injections of substances consistent with the practice of naturopathic medicine and in accordance with rules established by the secretary.

(9) "Naturopath" means an individual licensed under this chapter.

(10) "Naturopathic medicines" means vitamins; minerals; botanical medicines; homeopathic medicines; hormones; and those legend drugs and controlled substances consistent with naturopathic medical practice in accordance with rules established by the board. Controlled substances are limited to codeine and testosterone products that are contained in Schedules III, IV, and V in chapter 69.50 RCW.

(11) "Nutrition and food science" means the prevention and treatment of disease or other human conditions through the use of foods, water, herbs, roots, bark, or natural food elements.

(12) "Physical modalities" means use of physical, chemical, electrical, and other modalities that do not exceed those used as of July 22, 2011, in minor office procedures or common diagnostic procedures, including but not limited to heat, cold, air, light, water in any of its forms, sound, massage, and therapeutic exercise.

(13) "Radiography" means the ordering, but not the interpretation, of radiographic diagnostic and other imaging studies and the taking and interpretation of standard radiographs.

(14) "Secretary" means the secretary of health or the secretary's designee.

(15) "Suggestion" means techniques including but not limited to counseling, biofeedback, and hypnosis. [2011 c 41 § 3; 2011 c 40 § 1; 2005 c 158 § 1; 1991 c 3 § 87; 1987 c 447 § 4.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2011 c 40 § 1 and by 2011 c 41 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

***Reviser's note:** Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

Additional notes found at www.leg.wa.gov

18.36A.030 License required. (1) No person may practice naturopathy or represent himself or herself as a naturopath without first applying for and receiving a license from the secretary to practice naturopathy.

(2) A person represents himself or herself as a naturopath when that person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: Naturopath, naturopathy, naturopathic, natu-

ropathic physician, ND, or doctor of naturopathic medicine. [2011 c 41 § 4; 1991 c 3 § 88; 1987 c 447 § 2.]

18.36A.040 Scope of practice. Naturopathic medicine is the practice by naturopaths of the art and science of the diagnosis, prevention, and treatment of disorders of the body by stimulation or support, or both, of the natural processes of the human body. A naturopath is responsible and accountable to the consumer for the quality of naturopathic care rendered.

The practice of naturopathic medicine includes manual manipulation (mechanotherapy), the prescription, administration, dispensing, and use, except for the treatment of malignancies, of nutrition and food science, physical modalities, minor office procedures, homeopathy, naturopathic medicines, hygiene and immunization, contraceptive devices, common diagnostic procedures, and suggestion; however, nothing in this chapter shall prohibit consultation and treatment of a patient in concert with a practitioner licensed under chapter 18.57 or 18.71 RCW. No person licensed under this chapter may employ the term "chiropractic" to describe any services provided by a naturopath under this chapter. [2011 c 40 § 2; 2005 c 158 § 2; 1991 c 3 § 89; 1988 c 246 § 1; 1987 c 447 § 3.]

Additional notes found at www.leg.wa.gov

18.36A.050 Application of chapter—Exemptions. Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state who are performing services within their authorized scope of practice;

(2) The practice of naturopathic medicine by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed for him or her by the laws and regulations of the United States;

(3) The practice of naturopathic medicine by students enrolled in a school approved by the secretary. The performance of services shall be pursuant to a course of instruction or assignments from an instructor and under the supervision of the instructor. The instructor shall be a naturopath licensed pursuant to this chapter; or

(4) The practice of oriental medicine or oriental herbology, or the rendering of other dietary or nutritional advice. [1991 c 3 § 90; 1987 c 447 § 5.]

18.36A.060 Powers of secretary—Application of uniform disciplinary act. In addition to any other authority provided by law, the secretary may:

(1) Set all license, examination, and renewal fees in accordance with RCW 43.70.250;

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

(3) Issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure; except that denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and to hire individuals, including those licensed under this chapter, to serve as examiners or consultants as necessary to implement and administer this chapter;

(5) Maintain the official department record of all applicants and licensees; and

(6) Conduct a hearing on an appeal of a denial of a license based on the applicant's failure to meet the minimum qualifications for licensure. The hearing shall be conducted pursuant to chapter 34.05 RCW. [2011 c 41 § 5; 1991 c 3 § 91; 1987 c 447 § 6.]

18.36A.080 Civil immunity. The secretary, members of the board, or individuals acting on their behalf, are immune from suit in any civil action based on any act performed in the course of their duties. [2011 c 41 § 6; 1991 c 3 § 93; 1987 c 447 § 8.]

18.36A.090 Requirements for licensure. The department shall issue a license to any applicant who meets the following requirements:

(1) Successful completion of an educational program approved by the board, the minimum standard of which shall be the successful completion of a doctorate degree program in naturopathy which includes a minimum of two hundred postgraduate hours in the study of mechanotherapy from an approved educational program, or successful completion of equivalent alternate training that meets the criteria established by the board. The requirement for two hundred postgraduate hours in the study of mechanotherapy shall expire June 30, 1989;

(2) Successful completion of any equivalent experience requirement established by the board;

(3) Successful completion of an examination administered or approved by the board;

(4) Good moral character; and

(5) Not having engaged in unprofessional conduct or being unable to practice with reasonable skill and safety as a result of a physical or mental impairment.

The board shall establish what constitutes adequate proof of meeting the above requirements. Any person holding a valid license to practice drugless therapeutics under chapter 18.36 RCW upon January 1, 1988, shall be deemed licensed pursuant to this chapter. [2011 c 41 § 7; 1991 c 3 § 94; 1987 c 447 § 9.]

18.36A.100 Standards for approval of educational programs. (1) The board shall establish by rule the standards for approval of educational programs and alternate training and may contract with individuals or organizations having expertise in the profession and/or in education to report to the board the information necessary for the board to evaluate the educational programs. The standards for approval shall be based on the minimal competencies necessary for safe practice. The standards and procedures for approval shall apply equally to educational programs and equivalent alternate training within the United States and those in foreign jurisdictions.

(2) Each educational program requesting approval shall pay all administrative costs for the educational program eval-

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uation, including, but not limited to, costs for site evaluation. [2011 c 41 § 8; 1991 c 3 § 95; 1987 c 447 § 10.]

18.36A.110 Examination for licensure. (1) The date and location of the examination shall be established by the board. Applicants who have been found to meet the education and experience requirements for licensure shall be scheduled for the next examination following the filing of the application. The board shall establish by rule the examination application deadline.

(2) The examination shall contain subjects appropriate to the standards of competency and scope of practice.

(3) The board shall establish by rule the requirements for a reexamination if the applicant has failed the examination.

(4) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards. [2011 c 41 § 9; 1991 c 3 § 96; 1987 c 447 § 11.]

18.36A.120 License standards for applicants from other jurisdictions—Reciprocity. The board shall establish by rule the standards for licensure of applicants licensed in another jurisdiction. However, the standards for reciprocity of licensure shall not be less than required for licensure in the state of Washington. [2011 c 41 § 10; 1991 c 3 § 97; 1987 c 447 § 12.]

18.36A.130 Compliance with secretary's determinations. Applicants shall comply with administrative procedures, administrative requirements, and fees determined by the secretary as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 22; 1991 c 3 § 98; 1987 c 447 § 13.]

18.36A.140 Fee for renewal, late renewal. The secretary shall establish the administrative procedures, administrative requirements, and fees for renewal and late renewal of licenses as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 23; 1991 c 3 § 99; 1987 c 447 § 14.]

18.36A.150 Board of naturopathy. (1) There is created the board of naturopathy consisting of seven members appointed by the governor to four-year terms. Five members of the board shall be persons licensed under this chapter and two shall be members of the public. No member may serve more than two consecutive full terms. Members hold office until their successors are appointed. The governor may appoint the initial members of the board to staggered terms from one to four years. Thereafter, all members shall be appointed to full four-year terms.

(2) The public members of the board may not be a member of any other health care licensing board or commission, have a fiduciary obligation to a facility rendering services regulated under this chapter, or have a material or financial interest in the rendering of services regulated under this chapter.

(3) The board shall elect officers each year. The board shall meet at least twice each year and may hold additional meetings as called by the chair. Meetings of the board are open to the public, except that the board may hold executive sessions to the extent permitted by chapter 42.30 RCW. The

department shall provide secretarial, clerical, and other assistance as required by the board.

(4) Each member of the board shall be compensated in accordance with RCW 43.03.240. 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.

(5) A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

(6) The board may appoint members to panels of at least three members. A quorum for transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the board.

(7) The board may adopt such rules as are consistent with this chapter as may be deemed necessary and proper to carry out the purposes of this chapter.

(8) The governor may remove a member of the board for neglect of duty, misconduct, or malfeasance or misfeasance in office. Whenever the governor is satisfied that a member of the board has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, he or she shall file with the secretary of state a statement of the cause for and the order of removal from office, and the secretary shall immediately send a certified copy of the order of removal and statement of causes by certified mail to the last known post office address of the member. If a vacancy occurs on the board, the governor shall appoint a replacement to fill the remainder of the unexpired term. [2011 c 41 § 1.]

18.36A.160 Board of naturopathy—Duties. (1) In addition to any other authority provided by law, the board shall:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Determine the minimum education and experience requirements for licensure in conformance with RCW 18.36A.090, including, but not limited to, approval of educational programs;

(c) Prepare and administer, or approve the preparation and administration of, examinations for licensure;

(d) Establish by rule the procedures for an appeal of examination failure;

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

(f) Adopt rules implementing a continuing competency program.

(2) 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. [2011 c 41 § 2.]

18.36A.900 Effective date—1987 c 447 §§ 1-14. Sections 1 through 14 of this act shall take effect January 1, 1988. [1987 c 447 § 20.]

Chapter 18.39 RCW

EMBALMERS—FUNERAL DIRECTORS

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Burial and removal permits: RCW 70.58.230.

Cemeteries, morgues and human remains: Title 68 RCW.

Disposal of remains prohibited unless accompanied by proper permit: RCW 70.58.260.

Prearrangement contracts for cemeteries: Chapter 68.46 RCW.

Undertaker must file death certificate: RCW 70.58.240.

18.39.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the funeral and cemetery board created pursuant to RCW 18.39.173.

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

(3) "Embalmer" means a person engaged in the profession or business of disinfecting and preserving human remains for transportation or final disposition.

(4) "Funeral director" means a person engaged in the profession or business of providing for the care, shelter, transportation, and arrangements for the disposition of human remains that may include arranging and directing funeral, memorial, or other services.

(5) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such entity and all equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of human remains.

(6) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(7) "Licensee" means any person or entity holding a license, registration, endorsement, or permit under this chapter issued by the director.

(8) "Prearrangement funeral service contract" means any contract under which, for a specified consideration, a funeral establishment promises, upon the death of the person named or implied in the contract, to furnish funeral merchandise or services.

(9) "Public depository" means a public depository defined by RCW 39.58.010 or a state or federally chartered credit union.

(10) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, including the satisfactory completion of certain college courses, as set forth in this chapter.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female. [2009 c 102 § 1; 2005 c 365 § 1; 2000 c 171 § 10; 1989 c 390 § 1; 1982 c 66 § 1; 1981 c 43 § 1; 1979 c 158 § 39; 1977 ex.s. c 93 § 1; 1965 ex.s. c 107 § 1; 1937 c 108 § 1; RRS § 8313.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Number and gender: RCW 1.12.050.

Additional notes found at www.leg.wa.gov

18.39.020 License required. It is unlawful for any person to act or hold himself or herself 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

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person to establish, maintain, or operate a funeral establishment without a valid establishment license. [2005 c 365 § 2; 1987 c 150 § 30; 1981 c 43 § 2; 1937 c 108 § 2; RRS § 8314-1. Prior: 1909 c 215 § 1. Formerly RCW 18.39.020 and 18.39.110.]

Additional notes found at www.leg.wa.gov

18.39.035 Applicant for license as funeral director or embalmer—Eligibility. (1) An applicant for a license as a funeral director shall be at least eighteen years of age and must have obtained an associate of arts degree in mortuary science or completed a course of not less than two years in an accredited college, and a one-year course of training under a licensed funeral director in this state. The applicant must also pass an examination in the funeral arts and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter.

(2) An applicant for a license as an embalmer must be at least eighteen years of age and have obtained an associate of arts degree in mortuary science or completed a course of instruction in an accredited mortuary science college program and other college courses that total sixty semester hours or ninety quarter hours, completed a two-year course of training under a licensed embalmer in this state, and have passed an examination in the funeral sciences and an examination in the laws of this state pertaining to the handling, care, transportation, and disposition of human remains, and the contents of this chapter. [2005 c 365 § 3; 1996 c 217 § 1; 1981 c 43 § 3.]

18.39.045 College course requirements. (1) The two-year college course required for funeral directors under this chapter shall consist of sixty semester or ninety quarter hours of instruction at a school, college, or university accredited by the Northwest Association of Schools and Colleges or other accrediting association approved by the board, with a minimum 2.0 grade point, or a grade of C or better, in each subject required by subsection (2) of this section.

(2) Credits shall include one course in psychology, one in mathematics, two courses in English composition, two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, computer science, and first aid.

(3) This section does not apply to any person registered and in good standing as an apprentice funeral director or embalmer on or before January 1, 1982. [2005 c 365 § 4; 1996 c 217 § 2; 1982 c 66 § 20; 1981 c 43 § 4.]

Additional notes found at www.leg.wa.gov

18.39.050 Application—Renewal—Fees. Every application for an initial license or a license renewal under this chapter shall be made in writing on a form prescribed by the director with such information as the director requires. The director shall set license fees in accordance with RCW 43.24.086. [1985 c 7 § 37; 1982 c 66 § 21; 1981 c 43 § 5; 1975 1st ex.s. c 30 § 42; 1971 ex.s. c 266 § 8; 1937 c 108 § 6; RRS § 8318-1. Formerly RCW 18.39.050, 18.39.060, and 18.39.140.]

Additional notes found at www.leg.wa.gov

18.39.070 Examinations—Applications—Notice—Passing grades—Retake of examination. (1) License examinations shall be held by the director at least once each year at a time and place to be designated by the director. Application to take an examination shall be filed with the director at least fifteen days prior to the examination date. The department shall give each applicant written notice of the time and place of the next examination. The applicant shall be deemed to have passed an examination if the applicant attains a grade of not less than seventy-five percent in each examination. Any applicant who fails an examination shall be entitled, at no additional fee, to one retake of that examination.

(2) An applicant for a license may take his or her written examination after completing the educational requirements and before completing the course of training required under RCW 18.39.035. [2005 c 365 § 5; 1996 c 217 § 3; 1981 c 43 § 6; 1965 ex.s. c 107 § 4; 1937 c 108 § 5; RRS § 8317. Prior: 1909 c 215 §§ 8, 11.]

18.39.100 License—Form—Restrictions. Every license issued shall specify the name of the person to whom it is issued and shall be displayed in his or her place of business in an area accessible to the public. No license shall be assigned, and not more than one person shall carry on the profession or business of funeral directing or embalming under one license. [2005 c 365 § 6; 1996 c 217 § 4; 1937 c 108 § 7; RRS § 8319. Prior: 1909 c 215 § 13.]

18.39.120 Interns—Registration—Renewal—Notice of termination—Fees. Every person engaged in the business of funeral directing or embalming, who employs an intern to assist in the conduct of the business, shall register the name of each intern with the director at the beginning of the internship, and shall also forward notice of the termination of the internship. The registration shall be renewed annually and shall expire on the anniversary of the intern's birthdate. Fees determined under RCW 43.24.086 shall be paid for the initial registration of the intern, and for each annual renewal. [2005 c 365 § 7; 1985 c 7 § 38; 1981 c 43 § 7; 1975 1st ex.s. c 30 § 43; 1937 c 108 § 10; RRS § 8322.]

18.39.125 Academic interns. (1) An "academic intern" includes any student enrolled in an accredited college funeral service education program who is serving his or her three-month internship at a participating Washington state funeral establishment as required for graduation from the funeral service education program.

(2) Academic interns shall serve their internship in accordance with the guidelines established by the funeral service education program.

(3) Academic interns shall register with the director at the beginning of the academic internship on an application form prescribed by the board. The academic internship may not exceed a period of three months. No fee is required for registration as an academic intern. [2005 c 365 § 8.]

18.39.130 Licenses—Applicants from other states—Examination. The board may recognize licenses issued to funeral directors or embalmers from other states and extend reciprocity to an applicant if the applicant furnishes satisfac-

tory evidence that the applicant holds a valid license issued by another licensing authority recognized by the board as having qualifications for licensure that are substantially equivalent to those required by this chapter on the date of original licensure or licensure with the other licensing authority. Five years active experience as a licensee may be accepted to make up a deficit in the comparable education requirements.

The board may issue a funeral director's or embalmer's license upon:

- (1) Presentation of the license verification;
- (2) Payment of a fee determined under RCW 43.24.086;
- (3) Successful completion of the examination of the laws of this state pertaining to the handling, care, transportation, and disposition of human remains and the contents of this chapter. [2005 c 365 § 9; 1996 c 217 § 5. Prior: 1986 c 259 § 60; 1985 c 7 § 39; 1982 c 66 § 22; 1981 c 43 § 8; 1975 1st ex.s. c 30 § 44; 1937 c 108 § 15; RRS § 8325; prior: 1909 c 215 § 16.]

Additional notes found at www.leg.wa.gov

18.39.145 Funeral establishment license—Issuance—Requirements—Transferability—Expiration. The board shall issue a funeral establishment license to any person, partnership, association, corporation, or other organization to operate a funeral establishment, at a specific location only, which has met the following requirements:

(1) The applicant has designated the name under which the funeral establishment will operate and has designated the location for which the establishment license is to be issued;

(2) The applicant is licensed in this state as a funeral director or employs one licensed funeral director who will be in service at the designated location;

(3) The applicant has filed an application with the director as required by this chapter and paid the required filing fee pursuant to RCW 43.24.086;

(4) As a condition of applying for a new funeral establishment license, the person or entity desiring to acquire such ownership or control shall be bound by all then existing pre-arrangement funeral service contracts.

(5) All duties requiring a license will be performed by licensed individuals or registered interns.

The board may deny an application for a funeral establishment license, or issue a conditional license, if disciplinary action has previously been taken against the applicant or the applicant's designated funeral director or embalmer. No funeral establishment license shall be transferable. An applicant may make application for more than one funeral establishment license so long as all of the requirements are met for each license. All funeral establishment licenses shall expire on January 31st, or as otherwise determined by the director. [2005 c 365 § 10. Prior: 1986 c 259 § 61; 1985 c 7 § 40; 1977 ex.s. c 93 § 3.]

Additional notes found at www.leg.wa.gov

18.39.150 License lapse—Reinstatement—Fee—Reexamination. Any licensed funeral director or embalmer whose license has lapsed shall reapply for a license and pay a fee as determined under RCW 43.24.086 before the license may be issued. Applications under this section shall be made within one year after the expiration of the previous license. If

the application is not made within one year, the applicant shall be required to take an examination and pay the license fee, which may include penalty fees. [2005 c 365 § 11. Prior: 1986 c 259 § 63; 1985 c 7 § 41; 1981 c 43 § 10; 1975 1st ex.s. c 30 § 45; 1937 c 108 § 8; RRS § 8320.]

Additional notes found at www.leg.wa.gov

18.39.170 Inspector of funeral establishments, crematories, directors, and embalmers—Appointment—Eligibility—Term—Powers and duties. There shall be appointed by the director an agent whose title shall be "inspector of funeral establishments, crematories, funeral directors, and embalmers of the state of Washington." No person shall be eligible for such appointment unless he or she has been a licensed funeral director and embalmer in the state of Washington, with a minimum experience of not less than five consecutive years.

(1) The inspector shall:

- (a) Serve at the pleasure of the director; and
- (b) At all times be under the supervision of the director.

(2) The inspector is authorized to:

(a) Enter the office, premises, establishment, or place of business, where funeral directing, embalming, or cremation is carried on for the purpose of inspecting the premises;

(b) Inspect the licenses and registrations of funeral directors, embalmers, funeral director interns, and embalmer interns;

(c) Serve and execute any papers or process issued by the director under authority of this chapter; and

(d) Perform any other duty or duties prescribed or ordered by the director. [2005 c 365 § 12; 1937 c 108 § 16; RRS § 8325-1.]

18.39.173 Funeral and cemetery board—Membership—Appointment—Qualifications—Terms—Vacancies—Officers—Quorum. (1) A funeral and cemetery board is created. The initial appointments to the board include all members from the existing funeral directors and embalmers board and existing cemetery board with their year of expiration of term remaining the same. Subsequent to the initial appointments the board will consist of seven members to be appointed by the governor in accordance with this section.

(2) Three members of the board must be persons who have had experience in the active administrative management of a cemetery authority or as a member of the board of directors of a cemetery authority for a period of five years preceding appointment. Three members of the board must each be licensed in this state as funeral directors and embalmers and must have been continuously engaged in the practice as funeral directors and embalmers for a period of five years preceding appointment. One member must represent the general public and may not have worked in or received any substantive financial benefit from the funeral or cemetery industry. Board members must be a resident of the state of Washington.

(3) All members of the board shall be appointed to serve for a term of four years, to expire on July 1st of the year of termination of their term, and until their successors have been appointed. In case of a vacancy occurring on the board, the governor shall appoint a qualified member for the remainder

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of the unexpired term of the vacant office. Any member of the board who fails to properly discharge the duties of a member may be removed by the governor.

(4) The board shall meet once annually to conduct its business and to elect a chair, vice chair, and other officers as the board determines, and at other times when called by the director, the chair, or a majority of the members. A majority of the members of the board shall at all times constitute a quorum. A quorum of the board to consider any charges brought under this chapter must include two of the funeral director and embalmer members of the board. A quorum of the board to consider any charges brought under Title 68 RCW must include two of the members who have had experience in the active administrative management of a cemetery authority. If board members cannot serve due to a conflict of interest, a quorum constituting a majority of the members must preside over the hearing.

(5) Each member of the board must be compensated in accordance with RCW 43.03.240 and must receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2009 c 102 § 2; 2005 c 365 § 13; 1977 ex.s. c 93 § 8.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

18.39.175 Board—Duties and responsibilities—Rules. The board shall have the following duties and responsibilities under this chapter:

(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 and enforce reasonable rules;

(5) To examine or audit or to direct the examination and audit of prearrangement funeral service trust fund records for compliance with this chapter and rules adopted by the board; and

(6) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal. [2009 c 102 § 3; 2005 c 365 § 14; 1996 c 217 § 6; 1994 c 17 § 1. Prior: 1986 c 259 § 64; 1985 c 402 § 6; 1984 c 287 § 34; 1984 c 279 § 53; 1981 c 43 § 11; 1977 ex.s. c 93 § 9.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.39.181 Powers and duties of director. The director shall have the following powers and duties:

(1) To issue all licenses provided for under this chapter;

(2) To renew licenses under this chapter;

(3) To collect all fees prescribed and required under this chapter;

(4) To immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order;

(5) To keep records of all official acts, proceedings, and transactions of the department of licensing; and

(6) To employ the necessary staff to carry out the duties of this chapter. [2005 c 365 § 15; 1997 c 58 § 819; 1996 c 217 § 7; 1986 c 259 § 65; 1981 c 43 § 13; 1977 ex.s. c 93 § 5.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.39.195 Pricing information to be given—Billing "cash advanced" items. (1) Every licensed funeral director, his or her agent, or his or her employee shall give, or cause to be given, to the person making funeral arrangements or arranging for shipment, transportation, or other disposition of a deceased person:

(a) If requested by voice, data, text, electronic, or other similar transmission, accurate information regarding the retail prices of funeral merchandise and services offered for sale by that funeral director; and

(b) At the time such arrangements are completed or prior to the time of rendering the service, a written, itemized statement showing to the extent then known the price of merchandise and service that such person making such arrangements has selected, the price of supplemental items of service and merchandise, if any, and the estimated amount of each item for which the funeral service firm will advance money as an accommodation to the person making such funeral arrangements.

(2) No such funeral director, his or her agent, or his or her employee, shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item by the funeral director is the same amount as is billed to such funeral director. [2005 c 365 § 16; 1979 ex.s. c 62 § 1.]

18.39.215 Embalmers—Authorization to embalm—Information required—Immediate care of body—Waiver—Penalty. (1)(a) No licensed embalmer shall embalm human remains without first having obtained authorization from the individual or individuals that have the right to control the disposition under RCW 68.50.160.

(b) The funeral director or embalmer shall inform the family member or representative of the deceased that embalming is not required by state law, except that embalming is required under certain conditions as determined by rule by the state board of health.

(2)(a) Any licensee authorized to dispose of human remains shall refrigerate or embalm the human remains upon receipt of the human remains. However, subsection (1) of this section and RCW 68.50.108 shall be complied with before human remains are embalmed. Upon written authorization of the proper state or local authority, the provisions of this subsection may be waived for a specified period of time.

[Title 18 RCW—page 120]

(b) Violation of this subsection is a gross misdemeanor. [2005 c 365 § 17; 2003 c 53 § 127; 1987 c 331 § 76; 1985 c 402 § 5; 1981 c 43 § 15.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Legislative finding—1985 c 402: See note following RCW 68.50.185. Additional notes found at www.leg.wa.gov

18.39.217 License or endorsement required for cremation—Penalty. (1) A license or endorsement issued by the board or under chapter 68.05 RCW is required in order to operate a crematory or conduct a cremation.

(2) Conducting a cremation without a license or endorsement is a misdemeanor. Each such cremation is a separate violation. [2009 c 102 § 4; 2005 c 365 § 18; 2003 c 53 § 128; 1985 c 402 § 7.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

18.39.220 Unlawful business practices—Penalty. (1) Every licensee who pays, or causes to be paid, directly or indirectly, money, or other valuable consideration, for the securing of business is guilty of a gross misdemeanor.

(2) Every person who sells, or offers for sale, any share, certificate, or 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 to give to the purchaser 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, is guilty of a gross misdemeanor. [2005 c 365 § 19; 2003 c 53 § 129; 1981 c 43 § 16; 1937 c 108 § 13; RRS § 8323-2.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Violations—Penalty—Unfair practice under chapter 19.86 RCW: RCW 18.39.350.

18.39.231 Prohibited advice and transactions—Exceptions—Rules—Penalty. (1) A licensee shall not, in conjunction with any professional services performed for compensation under this chapter, provide financial or investment advice to any person other than a family member, represent any person in a real estate transaction, or act as an agent under a power of attorney for any person. However, this section shall not be deemed to prohibit a funeral establishment from entering into prearrangement funeral service contracts in accordance with this chapter or to prohibit a funeral director from providing advice about government or insurance benefits.

(2) A violation of this section is a gross misdemeanor and is grounds for disciplinary action.

(3) The board shall adopt rules as the board deems necessary to prevent unethical financial dealings between licensees and their clients. [2005 c 365 § 20; 2003 c 53 § 130; 1986 c 259 § 66; 1982 c 66 § 15.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

18.39.240 Prearrangement funeral service contracts—License required. Only a funeral establishment licensed pursuant to this chapter may enter into prearrangement funeral service contracts. [1989 c 390 § 2; 1982 c 66 § 2.]

Additional notes found at www.leg.wa.gov

18.39.250 Prearrangement contracts—Trusts—Refunds. (1) Any funeral establishment selling funeral merchandise or services by prearrangement funeral service contract and accepting moneys therefore must establish and maintain one or more prearrangement funeral service trusts under Washington state law with two or more designated trustees, for the benefit of the beneficiary of the prearrangement funeral service contract. Funeral establishments may join with one or more other Washington state licensed funeral establishments in a "master trust" provided that each member of the "master trust" complies individually with the requirements of this chapter.

(2) Up to ten percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment unless otherwise provided in this chapter. If the prearrangement funeral service contract is canceled within thirty calendar days of its signing, then the purchaser must receive a full refund of all moneys paid under the contract.

(3) At least ninety percent of the cash purchase price of each prearrangement funeral service contract, paid in advance, excluding sales tax, shall be placed in the trust established or utilized by the funeral establishment. Deposits to the prearrangement funeral service trust must be made not later than the twentieth day of the month following receipt of each payment made on the last ninety percent of each prearrangement funeral service contract, excluding sales tax.

(4) All prearrangement funeral service trust moneys must be deposited in an insured account in a commercial bank, trust company, mutual savings bank, savings and loan association, or credit union, whether state or federally chartered. The account or investments shall be designated as the prearrangement funeral service trust of the funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contracts. The prearrangement funeral service trust shall not be considered as, or used as, an asset of the funeral establishment. All prearrangement funeral service trust moneys must be invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(a) No officer or director of the funeral establishment, trustee of the prearrangement trust funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, may borrow any of such funds for himself or herself, directly or indirectly;

(b) No funds may be loaned to the funeral establishment, its agents, or employees, or to any corporation, partnership, or other business entity in which the funeral establishment has any ownership interest; and

(c) No funds may be invested with persons or business entities operating in a business field directly related to funeral homes.

(5) After deduction of reasonable fees for the administration of the trust, taxes paid or withheld, or other expenses of

the trust, all interest, dividends, or growth earned by a trust become a part of the trust. Adequate records must be maintained to allocate the share of principal and interest to each contract. Fees deducted for the administration of the trust may not exceed one percent per year of the amount in trust. In no instance may the administrative charges deducted from the prearrangement funeral service trust reduce, diminish, or in any other way lessen the value of the trust so that the services or merchandise provided for under the contract are reduced, diminished, or in any other way lessened.

(6) Except as otherwise provided in this chapter, the trustees of a prearrangement funeral service trust must permit withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the trustees that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(7) Subsequent to the thirty calendar day cancellation period provided for in this chapter, any purchaser or beneficiary who has a revocable prearrangement funeral service contract has the right to demand a refund of the amount in trust.

(8) Prearrangement funeral service contracts which have or should have an account in a prearrangement funeral service trust may be terminated by the board if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, has its prearrangement funeral service certificate of registration revoked, or for any other reason is unable to fulfill the obligations under the contract. In such event, or upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the funeral establishment must refund to the purchaser or beneficiary all moneys deposited in the trust and allocated to the contract unless otherwise ordered by a court of competent jurisdiction. The purchaser or beneficiary may, in lieu of a refund, elect to transfer the prearrangement funeral service contract and all amounts in trust to another funeral establishment licensed under this chapter which will agree, by endorsement to the contract, to be bound by the contract and to provide the funeral merchandise or services. Election of this option does not relieve the defaulting funeral establishment of its obligation to the purchaser or beneficiary for any amounts required to be, but not placed, in trust.

(9) Prior to the sale or transfer of ownership or control of any funeral establishment which has contracted for prearrangement funeral service contracts, any person, corporation, or other legal entity desiring to acquire such ownership or control must apply to the director in accordance with RCW 18.39.145. Persons and business entities selling or relinquishing, and persons and business entities purchasing or acquiring ownership or control of such funeral establishments must each verify and attest to a report showing the status of the prearrangement funeral service trust or trusts on the date of the sale. This report must be on a form prescribed by the board and shall be considered part of the application for a funeral

establishment license. In the event of failure to comply with this subsection, the funeral establishment is deemed to have gone out of business and the provisions of subsection (8) of this section apply.

(10) Prearrangement funeral service trust moneys may not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust moneys as collateral or other security.

(11)(a) If, at the time of the signing of the prearrangement funeral service contract, the beneficiary of the trust is a recipient of public assistance as defined in RCW 74.04.005, or reasonably anticipates being so defined, the contract may provide that the trust will be irrevocable. If after the contract is entered into, the beneficiary becomes eligible or seeks to become eligible for public assistance under Title 74 RCW, the contract may provide for an election by the beneficiary, or by the purchaser on behalf of the beneficiary, to make the trust irrevocable thereafter in order to become or remain eligible for such assistance.

(b) The department of social and health services must notify the trustee of any prearrangement service trust that the department has a claim on the estate of a beneficiary for long-term care services. Such notice must be renewed at least every three years. The trustees upon becoming aware of the death of a beneficiary must give notice to the department of social and health services, office of financial recovery, who shall file any claim there may be within thirty days of the notice.

(12) Every prearrangement funeral service contract financed through a prearrangement funeral service trust must contain language which:

(a) Informs the purchaser of the prearrangement funeral service trust and the amount to be deposited in the trust;

(b) Indicates if the contract is revocable or not in accordance with subsection (11) of this section;

(c) Specifies that a full refund of all moneys paid on the contract will be made if the contract is canceled within thirty calendar days of its signing;

(d) Specifies that, in the case of cancellation by a purchaser or beneficiary eligible to cancel under the contract or under this chapter, up to ten percent of the contract amount may be retained by the seller to cover the necessary expenses of selling and setting up the contract;

(e) Identifies the trust to be used and contains information as to how the trustees may be contacted. [2012 c 206 § 2; 2005 c 365 § 21; 1996 c 217 § 8; 1995 1st sp.s. c 18 § 62; 1989 c 390 § 3; 1982 c 66 § 3.]

Additional notes found at www.leg.wa.gov

18.39.255 Prearrangement contracts—Insurance funded—Requirements. Prearranged funeral service contracts funded through insurance shall contain language which:

(1) States the amount of insurance;

(2) Informs the purchaser of the name and address of the insurance company through which the insurance will be provided and the name of the beneficiary;

(3) Informs the purchaser that amounts paid for insurance may not be refundable;

(4) Informs that any funds from the policy not used for services may be subject to a claim for reimbursement for long-term care services paid for by the state; and

(5) States that for purposes of the contract, the procedures in RCW 18.39.250(11)(b) shall control such recoupment. [2005 c 365 § 22; 1995 1st sp.s. c 18 § 63; 1989 c 390 § 4.]

Additional notes found at www.leg.wa.gov

18.39.260 Prearrangement contracts—Certificates of registration required—Exception. A funeral establishment shall not enter into prearrangement funeral service contracts in this state unless the funeral establishment has obtained a certificate of registration issued by the board and such certificate is then in force.

Certificates of registration shall be maintained by funeral establishments and the funeral establishment shall comply with all requirements related to the sale of prearrangement contracts until all obligations have been fulfilled. The board may, for just cause, release a funeral establishment from specific registration or reporting requirements. [1989 c 390 § 5; 1986 c 259 § 67; 1982 c 66 § 4.]

Additional notes found at www.leg.wa.gov

18.39.270 Prearrangement contracts—Registration qualifications. To qualify for and hold a certificate of registration, a funeral establishment must:

(1) Be licensed pursuant to this chapter; and

(2) Fully comply with and qualify according to the provisions of this chapter. [1982 c 66 § 5.]

Additional notes found at www.leg.wa.gov

18.39.280 Prearrangement contracts—Application for registration. To apply for an original certificate of registration, a funeral establishment must:

(1) File with the board its request showing:

(a) Its name, location, and organization date;

(b) The kinds of funeral business it proposes to transact;

(c) A statement of its financial condition, management, and affairs on a form satisfactory to or furnished by the board;

(d) Documents establishing its trust, or its affiliation with a master trust, and the names and addresses of the trustees if a trust is to be used to finance prearrangement funeral service contracts;

(e) Documents establishing its relationship with insurance carriers if insurance is to be used to finance;

(f) Documents establishing any other financing relationships; and

(g) Such other documents, stipulations, or information as the board may reasonably require to evidence compliance with the provisions of this chapter.

(2) Deposit with the director the fees required by this chapter to be paid for filing the accompanying documents, and for the certificate of registration, if granted. [1989 c 390 § 6; 1986 c 259 § 68; 1982 c 66 § 7.]

Fees: RCW 18.39.290.

Additional notes found at www.leg.wa.gov

18.39.290 Prearrangement contracts—Registration—Renewal—Fees—Disposition. All certificates of registration issued pursuant to this chapter shall continue in force until the expiration date unless suspended or revoked. A certificate shall be subject to renewal annually ninety days after the end of its fiscal year, as stated on the original application, by the funeral establishment and payment of the required fees.

The director shall determine and collect fees related to certificate of registration licensure.

All fees so collected shall be remitted by the director to the state treasurer not later than the first business day following receipt of such funds and the funds shall be credited to the funeral directors and embalmers account. [1993 c 43 § 1; 1986 c 259 § 69; 1982 c 66 § 8.]

Additional notes found at www.leg.wa.gov

18.39.300 Grounds for disciplinary action. In addition to the grounds for action set forth in RCW 18.235.130, the board may take the disciplinary action set forth in RCW 18.235.110 against the funeral establishment's license, the license of any funeral director and/or the funeral establishment's certificate of registration, if the licensee or registrant:

(1) Fails to comply with any provisions of this chapter or any proper order or regulation of the board;

(2) Is found by the board to be in such condition that further execution of prearrangement contracts could be hazardous to purchasers or beneficiaries and the people of this state;

(3) Refuses to be examined, or refuses to submit to examination by the board when required;

(4) Fails to pay the expense of an examination; or

(5) Is found by the board after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued execution or servicing of prearrangement funeral service contracts hazardous to purchasers, beneficiaries, or to the public. [2002 c 86 § 219; 1989 c 390 § 7; 1986 c 259 § 70; 1982 c 66 § 6.]

Additional notes found at www.leg.wa.gov

18.39.320 Prearrangement contracts—Annual financial statement—Failure to file. (1) Each funeral establishment which has prearrangement funeral service contracts outstanding shall annually, as required by the board, file with the board a true and accurate statement of its financial condition and transactions and affairs involving prearrangement funeral service contracts for its preceding fiscal year. The statement shall be on such forms and shall contain such information as required by this chapter and by the board.

(2) The board shall take disciplinary action against the certificate of registration of any funeral establishment which fails to file its annual statement when due or after any extension of time which the board has, for good cause, granted. [1989 c 390 § 8; 1986 c 259 § 71; 1982 c 66 § 10.]

Additional notes found at www.leg.wa.gov

18.39.330 Prearrangement contract forms—Approval required—Grounds for disapproval. No prearrangement funeral contract forms shall be used without the prior approval of the board.

(2016 Ed.)

The board shall disapprove any such contract form, or withdraw prior approval, when such form:

(1) Violates or does not comply with this chapter;

(2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the merchandise or service purported to be provided in the general coverage of the contract;

(3) Has any title, heading, or other part of its provisions which is misleading;

(4) Is being solicited by deceptive advertising;

(5) Fails to disclose fully the terms of the funeral service being provided by the contract, including but not limited to, any discounts, guarantees, provisions for merchandise or service substitutions or other significant items; or

(6) Is not written in language which the board considers to be easily understood by the purchaser. [1989 c 390 § 9; 1986 c 259 § 72; 1982 c 66 § 11.]

Additional notes found at www.leg.wa.gov

18.39.345 Prearrangement trust—Examination by board. (1) The board shall examine a prearrangement funeral service trust whenever it deems it necessary, but at least once every three years, or whenever the licensee fails after reasonable notice from the board to file the reports required by this chapter or the board.

(2) The expense of the prearrangement funeral service trust examination shall be paid by the licensee and shall not be deducted from the earnings of the trust.

(3) Such examination shall be conducted in private in the principal office of the licensee and the records relating to prearrangement funeral service contracts and prearrangement funeral service trusts shall be available at such office. [2005 c 365 § 23; 1989 c 390 § 10.]

18.39.350 Violations—Penalty—Consumer protection—Retail installment contracts. Any person who violates or fails to comply with, or aids or abets any person in the violation of, or failure to comply with any of the provisions of this chapter is guilty of a class C felony pursuant to chapter 9A.20 RCW. Any such violation constitutes an unfair practice under chapter 19.86 RCW and this chapter and conviction thereunder is grounds for license revocation under this chapter and RCW 18.235.110. Retail installment contracts under this chapter shall be governed by chapter 63.14 RCW. [2002 c 86 § 220; 1989 c 390 § 11; 1982 c 66 § 13.]

Unlawful business practices—Penalty: RCW 18.39.220.

Additional notes found at www.leg.wa.gov

18.39.360 Fraternal or benevolent organizations and labor unions excepted. This chapter does not apply to any funeral right or benefit issued or granted as an incident to or by reason of membership in any fraternal or benevolent association or cooperative or society, or labor union not organized for profit. [1989 c 390 § 12; 1982 c 66 § 14.]

Additional notes found at www.leg.wa.gov

18.39.370 Prearrangement service contracts—Abandoned trusts. Any trust which has not matured or been refunded and for which no beneficiary can be located fifty years after its creation shall be considered abandoned and

will be handled in accordance with the escheat laws of the state of Washington. [1989 c 390 § 13.]

18.39.410 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action and may impose any of the sanctions specified in RCW 18.235.110 for the following conduct, acts, or conditions, except as provided in RCW 9.97.020:

(1) Solicitation of human remains by a licensee, registrant, endorsement, or permit holder, or agent, assistant, or employee of the licensee, registrant, endorsement, or permit holder whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of prearrangement funeral service contracts;

(2) Solicitation may include employment of solicitors, payment of commission, bonus, rebate, or any form of gratuity or payment of a finders fee, referral fee, or other consideration given for the purpose of obtaining or providing the services for human remains or where death is impending;

(3) Acceptance by a licensee, registrant, endorsement, or permit holder or other employee of a funeral establishment of a commission, bonus, rebate, or gratuity in consideration of directing business to a cemetery, crematory, mausoleum, columbarium, florist, or other person providing goods and services to the disposition of human remains;

(4) Using a casket or part of a casket that has previously been used as a receptacle for, or in connection with, the burial or other disposition of human remains without the written consent of the person lawfully entitled to control the disposition of remains of the deceased person in accordance with RCW 68.50.160. This subsection does not prohibit the use of rental caskets, such as caskets of which the outer shell portion is rented and the inner insert that contains the human remains is purchased and used for the disposition, that are disclosed as such in the statement of funeral goods and services;

(5) Violation of a state law, municipal law, or county ordinance or regulation affecting the handling, custody, care, transportation, or disposition of human remains, except as provided in RCW 9.97.020;

(6) Refusing to promptly surrender the custody of human remains upon the expressed order of the person lawfully entitled to its custody under RCW 68.50.160;

(7) Selling, or offering for sale, a share, certificate, or an interest in the business of a funeral establishment, or in a corporation, firm, or association owning or operating a funeral establishment that promises or purports to give to purchasers a right to the services of a licensee, registrant, endorsement, or permit holder at a charge or cost less than offered or given to the public;

(8) Violation of any state or federal statute or administrative ruling relating to funeral practice, except as provided in RCW 9.97.020;

(9) Knowingly concealing information concerning a violation of this title. [2016 c 81 § 9; 2005 c 365 § 24; 2002 c 86 § 221; 1994 c 17 § 3.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Additional notes found at www.leg.wa.gov

18.39.420 Complaint to board—Submittal—Determination—Investigation—Immunity of complainant. A person, including but not limited to a consumer, licensee, corporation, organization, and state and local governmental agency, may submit a written complaint to the board charging a licensee, registration, endorsement, or permit holder or applicant with unprofessional conduct and specifying the grounds for the complaint. If the board determines that the complaint merits investigation, or if the board has reason to believe, without a formal complaint, that a licensee holder or applicant might have engaged in unprofessional conduct, the board shall investigate to determine whether there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint. [1994 c 17 § 4.]

18.39.450 Findings of fact—Order—Notice—Report. (1) In the event of a finding of unprofessional conduct, the board shall prepare and serve findings of fact and an order as provided in chapter 34.05 RCW and the board shall notify the public, which notice must include press releases to appropriate local news media and the major news wire services. If the licensee, registration, endorsement, or permit holder or applicant is found to have not committed unprofessional conduct, the board shall immediately prepare and serve findings of fact and an order of dismissal of the charges. The board shall retain the findings of fact and order as a permanent record.

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

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

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

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

(3) This section does not require the reporting of information that is exempt from public disclosure under chapter 42.56 RCW. [2005 c 274 § 223; 1994 c 17 § 7.]

Additional notes found at www.leg.wa.gov

18.39.465 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of

the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 9.]

Additional notes found at www.leg.wa.gov

18.39.467 License suspension—Noncompliance with support order—Reissuance. In the case of suspension for failure to comply with a support order under chapter 74.20A RCW or a *residential or visitation order under chapter 26.09 RCW, if the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of a license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order. [1997 c 58 § 820.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.39.525 Certificates of removal registration. (1) The director shall issue a certificate of removal registration to a funeral establishment licensed in another state contiguous to Washington, with laws substantially similar to the provisions of this section, for the limited purpose of removing human remains from Washington prior to submitting a certificate of death. Licensed funeral establishments wishing to participate must: Apply to the department of licensing for a certificate of removal registration, on a form provided by the department, and pay the required application fee, as set by the director.

(2) For purposes of this section, each branch of a registrant's funeral establishment is a separate establishment and must be registered as a fixed place of business.

(3) Certificates of death are governed by RCW 70.58.160.

(4) Notices of removal and disposition permits are governed by RCW 70.58.230.

(5) The conduct of funeral directors, embalmers, or any other person employed by or acting on behalf of a removal registrant is the direct responsibility of the holder of the certificate of removal registration.

(6) The board may impose sanctions upon the holder of a certificate of removal registration if the registrant is found to be in violation of any death care statute or rule.

(7) Certificates of removal registration expire January 31st, or as otherwise determined by the director. [2005 c 365 § 26.]

18.39.530 Practice without license—Penalties. Unlicensed practice of a profession or operation of a business for which a license, registration, endorsement, or permit is required under this chapter, unless otherwise exempted by law, is a gross misdemeanor. Fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section must be remitted to the board. [2002 c 86 § 222; 1994 c 17 § 15.]

Additional notes found at www.leg.wa.gov

(2016 Ed.)

18.39.560 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 223.]

Additional notes found at www.leg.wa.gov

18.39.570 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 4.]

18.39.810 Funeral and cemetery account. The funeral and cemetery account is created in the custody of the state treasurer. All receipts from fines and fees collected under this chapter and chapter 68.05 RCW must be deposited in the account. Expenditures from the account may be used only to carry out the duties required for the operation and enforcement of this chapter and chapter 68.05 RCW. Only the director of licensing or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2009 c 102 § 24.]

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: "Any residual balance of funds remaining in the funeral directors and embalmers account and the cemetery account must be transferred to the funeral and cemetery account established in section 24 of this act. The treasurer shall make the transfer after being notified by the office of financial management that it has completed the financial statement for fiscal year 2009, and no later than December 31, 2009." [2009 c 102 § 25.]

Chapter 18.43 RCW

ENGINEERS AND LAND SURVEYORS

Sections

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Actions or claims for engineering and surveying services, limitations upon: RCW 4.16.300 through 4.16.320.

Noncompliance with surveys and monuments recording law—Grounds for revocation: RCW 58.09.140.

Public contracts for engineering services: Chapter 39.80 RCW.

Surveys and monuments recording law: Chapter 58.09 RCW.

18.43.010 General provisions. In order to safeguard life, health, and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or land surveying, shall hereafter be required to submit evidence that he or she is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice in this state, engineering or land surveying, as defined in the provisions of this chapter, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description tending to convey the impression that he or she is a professional engineer or a land surveyor, unless such a person has been duly registered under the provisions of this chapter. [2011 c 336 § 480; 1947 c 283 § 1; Rem. Supp. 1947 § 8306-21. Prior: 1935 c 167 § 2; RRS § 8306-2.]

False advertising: Chapter 9.04 RCW.

18.43.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Engineer" means a professional engineer as defined in this section.

(2) "Professional engineer" means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as defined in this section, as attested by his or her legal registration as a professional engineer.

(3) "Engineer-in-training" means a candidate who: (a) Has satisfied the experience requirements in RCW 18.43.040 for registration; (b) has successfully passed the examination in the fundamental engineering subjects; and (c) is enrolled by the board as an engineer-in-training.

(4) "Engineering" means the "practice of engineering" as defined in this section.

(5)(a) "Practice of engineering" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects.

(b) A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself or herself to be a professional engineer, or through the use of some other title implies that he or she is a professional engineer; or who holds himself or herself out as able to perform, or who does perform, any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering.

(c) The practice of engineering does not include the work ordinarily performed by persons who operate or maintain machinery or equipment.

(6) "Land surveyor" means a professional land surveyor.

(7) "Professional land surveyor" means a person who, by reason of his or her special knowledge of the mathematical and physical sciences and principles and practices of land surveying, which is acquired by professional education and practical experience, is qualified to practice land surveying and as attested to by his or her legal registration as a professional land surveyor.

(8) "Land-surveyor-in-training" means a candidate who: (a) Has satisfied the experience requirements in RCW 18.43.040 for registration; (b) successfully passes the examination in the fundamental land surveying subjects; and (c) is enrolled by the board as a land-surveyor-in-training.

(9) "Practice of land surveying" means assuming responsible charge of the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries, and monuments of land after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical delineations and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill.

(10) "Board" means the state board of registration for professional engineers and land surveyors, provided for by this chapter.

(11) "Significant structures" include:

(a) Hazardous facilities, defined as: Structures housing, supporting, or containing sufficient quantities of explosive substances to be of danger to the safety of the public if released;

(b) Essential facilities that have a ground area of more than five thousand square feet and are more than twenty feet in mean roof height above average ground level. Essential facilities are defined as:

(i) Hospitals and other medical facilities having surgery and emergency treatment areas;

(ii) Fire and police stations;

(iii) Tanks or other structures containing, housing, or supporting water or fire suppression material or equipment required for the protection of essential or hazardous facilities or special occupancy structures;

(iv) Emergency vehicle shelters and garages;

(v) Structures and equipment in emergency preparedness centers;

(vi) Standby power-generating equipment for essential facilities;

(vii) Structures and equipment in government communication centers and other facilities requiring emergency response;

(viii) Aviation control towers, air traffic control centers, and emergency aircraft hangars; and

(ix) Buildings and other structures having critical national defense functions;

(c) Structures exceeding one hundred feet in height above average ground level;

(d) Buildings that are customarily occupied by human beings and are five stories or more above average ground level;

(e) Bridges having a total span of more than two hundred feet and piers having a surface area greater than ten thousand square feet; and

(f) Buildings and other structures where more than three hundred people congregate in one area. [2007 c 193 § 2; 1995 c 356 § 1; 1991 c 19 § 1; 1947 c 283 § 2; Rem. Supp. 1947 § 8306-22. Prior: 1935 c 167 § 1; RRS § 8306-1.]

Effective date—2007 c 193: See note following RCW 18.43.040.

Additional notes found at www.leg.wa.gov

18.43.030 Board of registration—Members—Terms—Qualifications—Compensation and travel expenses. A state board of registration for professional engineers and land surveyors is hereby created which shall exercise all of the powers and perform all of the duties conferred upon it by this chapter. After July 9, 1986, the board shall consist of seven members, who shall be appointed by the governor and shall have the qualifications as hereinafter required. The terms of board members in office on June 11, 1986, shall not be affected. The first additional member shall be appointed for a four-year term and the second additional member shall be appointed for a three-year term. On the expiration of the term of any member, the governor shall appoint a successor for a term of five years to take the place of the member whose term on said board is about to expire. However, no member shall serve more than two consecutive terms on the board. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified.

Five members of the board shall be registered professional engineers licensed under the provisions of this chapter. Two members shall be registered professional land surveyors licensed under this chapter. Each of the members of the board shall have been actively engaged in the practice of engineering or land surveying for at least ten years subsequent to registration, five of which shall have been immediately prior to their appointment to the board.

Each member of the board shall be a citizen of the United States and shall have been a resident of this state for at least five years immediately preceding his or her appointment.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and, in addition thereto, shall be reimbursed for travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060.

The governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as hereinabove provided. [2011 c 336 § 481; 1986 c 102 § 1; 1984 c 287 § 35; 1975-'76 2nd ex.s. c 34 § 37; 1947 c 283 § 3; Rem. Supp. 1947 § 8306-23.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

(2016 Ed.)

18.43.033 Pro tem board members—Limits—Duties.

Upon request of the board, and with approval of the director, the board chair shall appoint up to two individuals to serve as pro tem members of the board. The appointments are limited, as defined by the board chair, for the purpose of participating as a temporary member of the board on any combination of one or more committees or formal disciplinary hearing panels. An appointed individual must meet the same qualifications as a regular member of the board. While serving as a board member pro tem, an appointed person has all the powers, duties, and immunities of a regular member of the board and is entitled to the same compensation, including travel expenses, in accordance with RCW 18.43.030. A pro tem appointment may not last for more than one hundred eighty days unless approved by the director. [1997 c 247 § 1.]

18.43.035 Bylaws—Employees—Rules—Periodic reports and roster. The board may adopt and amend bylaws establishing its organization and method of operation, including but not limited to meetings, maintenance of books and records, publication of reports, code of ethics, and rosters, and adoption and use of a seal. Four members of the board shall constitute a quorum for the conduct of any business of the board. The board may employ such persons as are necessary to carry out its duties under this chapter. It may adopt rules reasonably necessary to administer the provisions of this chapter. The board shall submit to the governor such periodic reports as may be required. A roster, showing the names and places of business of all registered professional engineers and land surveyors may be published for distribution, upon request, to professional engineers and land surveyors registered under this chapter and to the public. [2002 c 86 § 224; 1997 c 247 § 2; 1986 c 102 § 2; 1977 c 75 § 10; 1961 c 142 § 1; 1959 c 297 § 1.]

Additional notes found at www.leg.wa.gov

18.43.040 Registration requirements. (1) The following will be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, engineer-in-training, professional land surveyor, or land-surveyor-in-training, respectively:

(a)(i) As a professional engineer: A specific record of eight years or more of experience in engineering work of a character satisfactory to the board and indicating that the applicant is competent to practice engineering; and successfully passing a written or oral examination, or both, in engineering as prescribed by the board.

(ii) Graduation in an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing shall be considered equivalent to four years of such required experience. The satisfactory completion of each year of such an approved engineering course without graduation shall be considered as equivalent to a year of such required experience. Graduation in a curriculum other than engineering from a school or college approved by the board shall be considered as equivalent to two years of such required experience. However, no applicant shall receive credit for more than four years of experience because of undergraduate educational qualifications. The board may, at its discretion, give credit as experience not

in excess of one year, for satisfactory postgraduate study in engineering.

(iii) Structural engineering is recognized as a specialized branch of professional engineering. To receive a certificate of registration in structural engineering, an applicant must hold a current registration in this state in engineering and have at least two years of structural engineering experience, of a character satisfactory to the board, in addition to the eight years' experience required for registration as a professional engineer. An applicant for registration as a structural engineer must also pass an additional examination as prescribed by the board.

(iv) An engineer must be registered as a structural engineer in order to provide structural engineering services for significant structures. The board may waive the requirements of this subsection (1)(a)(iv) until December 31, 2010, if:

(A) On January 1, 2007, the engineer is registered with the board as a professional engineer; and

(B) Within two years of January 1, 2007, the engineer demonstrates to the satisfaction of the board that the engineer has sufficient experience in the duties typically provided by a professional structural engineer regarding significant structures.

(b)(i) As an engineer-in-training: An applicant for registration as a professional engineer shall take the prescribed examination in two stages. The first stage of the examination may be taken upon submission of his or her application for registration as an engineer-in-training and payment of the application fee prescribed in RCW 18.43.050 at any time after the applicant has completed four years of the required engineering experience, as defined in this section, or has achieved senior standing in a school or college approved by the board. The first stage of the examination shall test the applicant's knowledge of appropriate fundamentals of engineering subjects, including mathematics and the basic sciences.

(ii) At any time after the completion of the required eight years of engineering experience, as defined in this section, the applicant may take the second stage of the examination upon submission of an application for registration and payment of the application fee prescribed in RCW 18.43.050. This stage of the examination shall test the applicant's ability, upon the basis of his or her greater experience, to apply his or her knowledge and experience in the field of his or her specific training and qualifications.

(c)(i) As a professional land surveyor: A specific record of eight years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying, and successfully passing a written or oral examination, or both, in surveying as prescribed by the board.

(ii) Graduation from a school or college approved by the board as of satisfactory standing, including the completion of an approved course in surveying, shall be considered equivalent to four years of the required experience. Postgraduate college courses approved by the board shall be considered for up to one additional year of the required experience.

(d)(i) As a land-surveyor-in-training: An applicant for registration as a professional land surveyor shall take the prescribed examination in two stages. The first stage of the examination may be taken upon submission of his or her

application for registration as a land-surveyor-in-training and payment of the application fee prescribed in RCW 18.43.050 at any time after the applicant has completed four years of the required land surveying experience, as defined in this section, or has achieved senior standing in a school or college approved by the board. The first stage of the examination shall test the applicant's knowledge of appropriate fundamentals of land surveying subjects, including mathematics and the basic sciences.

(ii) At any time after the completion of the required eight years of land surveying experience, as defined in this section, the applicant may take the second stage of the examination upon submission of an application for registration and payment of the application fee prescribed in RCW 18.43.050. This stage of the examination shall test the applicant's ability, upon the basis of greater experience, to apply knowledge and experience in the field of land surveying.

(iii) The first stage shall be successfully completed before the second stage may be attempted. Applicants who have been approved by the board to take the examination based on the requirement for six years of experience under this section before July 1, 1996, are eligible to sit for the examination.

(2) No person shall be eligible for registration as a professional engineer, engineer-in-training, professional land surveyor, or land-surveyor-in-training, who is not of good character and reputation.

(3) Teaching, of a character satisfactory to the board shall be considered as experience not in excess of two years for the appropriate profession.

(4) The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be practice of engineering.

(5) Any person having the necessary qualifications prescribed in this chapter to entitle him or her to registration shall be eligible for such registration although the person may not be practicing his or her profession at the time of making his or her application. [2007 c 193 § 1; 2000 c 172 § 1; 1995 c 356 § 2; 1991 c 19 § 2; 1947 c 283 § 7; Rem. Supp. 1947 § 8306-24. Prior: 1935 c 167 § 2; RRS § 8306-2.]

Effective date—2007 c 193: "This act takes effect July 1, 2008." [2007 c 193 § 3.]

Additional notes found at www.leg.wa.gov

18.43.050 Application—Registration fees. Application for registration shall be on forms prescribed by the board and furnished by the director, shall contain statements made under oath, showing the applicant's education and detail summary of his or her technical work and shall contain not less than five references, of whom three or more shall be engineers having personal knowledge of the applicant's engineering experience.

The registration fee for professional engineers shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for engineer-in-training shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

The registration fee for professional land surveyors shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate. The fee for land-surveyor-in-training shall be determined by the director as provided in RCW 43.24.086, which shall accompany the application and shall include the cost of examination and issuance of certificate.

Should the board find an applicant ineligible for registration, the registration fee shall be retained as an application fee. [1995 c 356 § 3; 1991 c 19 § 3; 1985 c 7 § 42; 1975 1st ex.s. c 30 § 46; 1947 c 283 § 8; Rem. Supp. 1947 § 8306-25. Prior: 1935 c 167 § 6; RRS § 8306-6.]

Additional notes found at www.leg.wa.gov

18.43.060 Examinations. When oral or written examinations are required, they shall be held at such time and place as the board shall determine. If examinations are required on fundamental engineering subjects (such as ordinarily given in college curricula) the applicant shall be permitted to take this part of the professional examination prior to his or her completion of the requisite years of experience in engineering work. The board shall issue to each applicant upon successfully passing the examination in fundamental engineering subjects a certificate stating that the applicant has passed the examination in fundamental engineering subjects and that his or her name has been recorded as an engineer-in-training.

The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering works so as to insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in engineering and in land surveying. A candidate failing an examination may apply for reexamination. Subsequent examinations will be granted upon payment of a fee to be determined by the director as provided in RCW 43.24.086. [1991 c 19 § 4; 1961 c 142 § 2; 1947 c 283 § 9; Rem. Supp. 1947 § 8306-26. Prior: 1935 c 167 § 7; RRS § 8306-7.]

18.43.070 Certificates and seals. The director of licensing shall issue a certificate of registration upon payment of a registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. In case of a registered engineer, the certificate shall authorize the practice of "professional engineering" and specify the branch or branches in which specialized, and in case of a registered land surveyor, the certificate shall authorize the practice of "land surveying."

In case of engineer-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental engineering subjects required by the board and has been enrolled as an "engineer-in-training." In case of land-surveyor-in-training, the certificate shall state that the applicant has successfully passed the examination in fundamental surveying subjects required by the board and has been enrolled as a "land-surveyor-in-training." All certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chair and the secretary of the board and by the director of licensing.

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The issuance of a certificate of registration by the director of licensing shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered professional engineer or a registered land surveyor, while the said certificate remains unrevoked and unexpired.

Each registrant hereunder shall upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered professional engineer" or "registered land surveyor." Plans, specifications, plats, and reports prepared by the registrant shall be signed, dated, and stamped with said seal or facsimile thereof. Such signature and stamping shall constitute a certification by the registrant that the same was prepared by or under his or her direct supervision and that to his or her knowledge and belief the same was prepared in accordance with the requirements of the statute. It shall be unlawful for anyone to stamp or seal any document with said seal or facsimile thereof after the certificate of registrant named thereon has expired or been revoked, unless said certificate shall have been renewed or reissued. [2011 c 336 § 482; 1995 c 356 § 4; 1991 c 19 § 5; 1959 c 297 § 4; 1947 c 283 § 10; Rem. Supp. 1947 § 8306-27. Prior: 1935 c 167 §§ 8, 13; RRS § 8306-8, 13.]

Additional notes found at www.leg.wa.gov

18.43.075 Retired status certificate. The board may adopt rules under this section authorizing a retired status certificate. An individual certificated under this chapter who has reached the age of sixty-five years and has retired from the active practice of engineering and land surveying may, upon application and at the discretion of the board, be exempted from payment of annual renewal fees thereafter. [1995 c 356 § 5.]

Additional notes found at www.leg.wa.gov

18.43.080 Expiration and renewals of certificates—Fees—Continuing professional development. (1) Certificates of registration, and certificates of authorization and renewals thereof, shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the administrator of the division of professional licensing to notify every person, firm, or corporation registered under this chapter of the date of the expiration of his or her certificate and the amount of the renewal fee that shall be required for its renewal for one year. Such notice shall be mailed at least thirty days before the end of December of each year. Renewal may be effected during the month of December by the payment of a fee determined by the director as provided in RCW 43.24.086. In case any professional engineer and/or land surveyor registered under this chapter shall fail to pay the renewal fee hereinabove provided for, within ninety days from the date when the same shall become due, the renewal fee shall be the current fee plus an amount equal to one year's fee.

(2) Beginning July 1, 2007, the department of licensing may not renew a certificate of registration for a land surveyor unless the registrant verifies to the board that he or she has completed at least fifteen hours of continuing professional development per year of the registration period. By July 1, 2006, the board shall adopt rules governing continuing pro-

professional development for land surveyors that are generally patterned after the model rules of the national council of examiners for engineering and surveying. [2005 c 29 § 1; 1985 c 7 § 43; 1981 c 260 § 4. Prior: 1975 1st ex.s. c 30 § 47; 1975 c 23 § 1; 1965 ex.s. c 126 § 1; 1961 c 142 § 3; 1959 c 297 § 5; 1947 c 283 § 11; Rem. Supp. 1947 § 8306-28; prior: 1935 c 167 § 10; RRS § 8306-10.]

18.43.100 Registration of out-of-state applicants.

The board may, upon application and the payment of a fee determined by the director as provided in RCW 43.24.086, issue a certificate without further examination as a professional engineer or land surveyor to any person who holds a certificate of qualification of registration issued to the applicant following examination by proper authority, of any state or territory or possession of the United States, the District of Columbia, or of any foreign country, provided: (1) That the applicant's qualifications meet the requirements of the chapter and the rules established by the board, and (2) that the applicant is in good standing with the licensing agency in said state, territory, possession, district, or foreign country. [1991 c 19 § 7; 1985 c 7 § 44; 1975 1st ex.s. c 30 § 48; 1959 c 297 § 6; 1947 c 283 § 13; Rem. Supp. 1947 § 8306-30. Prior: 1935 c 167 § 5; RRS § 8306-5.]

18.43.105 Disciplinary action—Prohibited conduct, acts, conditions. In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action for the following conduct, acts, or conditions:

(1) Offering to pay, paying or accepting, either directly or indirectly, any substantial gift, bribe, or other consideration to influence the award of professional work;

(2) Being willfully untruthful or deceptive in any professional report, statement or testimony;

(3) Attempting to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects or business of anyone;

(4) Failure to state separately or to charge separately for professional engineering services or land surveying where other services or work are also being performed in connection with the engineering services;

(5) Violation of any provisions of this chapter;

(6) Conflict of interest—Having a financial interest in bidding for or performance of a contract to supply labor or materials for or to construct a project for which employed or retained as an engineer except with the consent of the client or employer after disclosure of such facts; or allowing an interest in any business to affect a decision regarding engineering work for which retained, employed, or called upon to perform;

(7) Nondisclosure—Failure to promptly disclose to a client or employer any interest in a business which may compete with or affect the business of the client or employer;

(8) Unfair competition—Reducing a fee quoted for prospective employment or retainer as an engineer after being informed of the fee quoted by another engineer for the same employment or retainer;

(9) Improper advertising—Soliciting retainer or employment by advertisement which is undignified, self-laudatory, false or misleading, or which makes or invites comparison between the advertiser and other engineers;

(10) Committing any other act, or failing to act, which act or failure are customarily regarded as being contrary to the accepted professional conduct or standard generally expected of those practicing professional engineering or land surveying. [2002 c 86 § 225; 1961 c 142 § 4; 1959 c 297 § 2.]

Additional notes found at www.leg.wa.gov

18.43.110 Discipline of registrant—Board's power—Unprofessional conduct—Reissuance of certificate of registration. The board shall have the exclusive power to discipline the registrant and sanction the certificate of registration of any registrant.

Any person may file a complaint alleging unprofessional conduct, as set out in RCW 18.235.130 and 18.43.105, against any registrant. The complaint shall be in writing and shall be sworn to in writing by the person making the allegation. A registrant against whom a complaint was made must be immediately informed of such complaint by the board.

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked or suspended, providing a majority of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge determined by the director as provided in RCW 43.24.086 shall be made for such issuance.

In addition to the imposition of disciplinary action under RCW 18.235.110, the board may refer violations of this chapter to the appropriate prosecuting attorney for charges under RCW 18.43.120. [2002 c 86 § 226; 1997 c 247 § 3; 1989 c 175 § 62; 1986 c 102 § 3; 1985 c 7 § 45; 1982 c 37 § 1; 1975 1st ex.s. c 30 § 49; 1947 c 283 § 14; Rem. Supp. 1947 § 8306-31. Prior: 1935 c 167 § 11; RRS § 8306-11.]

Additional notes found at www.leg.wa.gov

18.43.120 Violations and penalties. Any person who shall practice, or offer to practice, engineering or land surveying in this state without being registered in accordance with the provisions of the chapter, or any person presenting or attempting to use as his or her own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant, or any person who shall attempt to use the expired or revoked certificate of registration, or any person who shall violate any of the provisions of this chapter shall be guilty of a gross misdemeanor.

It shall be the duty of all officers of the state or any political subdivision thereof, to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the board, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [2011 c 336 § 483; 1986 c 102 § 4; 1947 c 283 § 15; Rem. Supp. 1947 § 8306-32. Prior: 1935 c 167 § 14; RRS § 8306-14.]

Forgery: RCW 9A.60.020.

18.43.130 Excepted services—Fees. This chapter shall not be construed to prevent or affect:

(1) The practice of any other legally recognized profession or trade; or

(2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: PROVIDED, Such person has been determined by the board to be legally qualified by registration to practice the said profession in his or her own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter. The person shall request such a determination by completing an application prescribed by the board and accompanied by a fee determined by the director. Upon approval of the application, the board shall issue a permit authorizing temporary practice; or

(3) The practice of a person not a resident and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering or land surveying, if he or she shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter: PROVIDED, That such person is legally qualified by registration to practice engineering or land surveying in his or her own state or country in which the requirements and qualifications of obtaining a certificate of registration are not lower than those specified in this chapter. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(4) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under provisions of this section: PROVIDED, That such work does not include final design or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under the provisions of this section; or

(5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and such general business does not consist, either wholly or in part, of the rendering of engineering services to the general public: PROVIDED, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

(6) The practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for the government of the United States; or

(7) Nonresident engineers employed for the purpose of making engineering examinations; or

(8) The practice of engineering or land surveying, or both, in this state by a corporation or joint stock association: PROVIDED, That

(a) The corporation has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether such corporation is qualified in accordance with this chapter to practice engineering or land surveying, or both, in this state;

(b) For engineering, the corporation has filed with the board a certified copy of a resolution of the board of directors of the corporation that shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by the corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the person so designated in the resolution. For land surveying, the corporation has filed with the board a certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of land surveying by the corporation in this state and shall provide full authority to make all final land surveying decisions on behalf of the corporation with respect to work performed by the corporation in this state be granted and delegated by the board of directors to the person so designated in the resolution. If a corporation offers both engineering and land surveying services, the board of directors shall designate both a licensed engineer and a licensed land surveyor. If a person is licensed in both engineering and land surveying, the person may be designated for both professions. The resolution shall further state that the bylaws of the corporation shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(c) If there is a change in the designated engineer or designated land surveyor, the corporation shall notify the board in writing within thirty days after the effective date of the change. If the corporation changes its name, the corporation shall submit a copy of its amended certificate of authority or amended certificate of incorporation as filed with the secretary of state within thirty days of the filing;

(d) Upon the filing with the board the application for certificate for authorization, certified copy of resolution and an affidavit, the designation of a designated engineer or designated land surveyor, or both, specified in (b) of this subsection, a certificate of incorporation or certificate of authorization as filed with the secretary of state, and a copy of the corporation's current Washington business license, the board shall issue to the corporation a certificate of authorization to practice engineering or land surveying, or both, in this state upon a determination by the board that:

(i) The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state in accordance with this chapter and the certificate is in force;

(ii) The designated engineer or designated land surveyor, or both, are not designated in responsible charge for another corporation or a limited liability company; and

(iii) The corporation is licensed with the secretary of state and holds a current unified business identification number and the board determines, based on evaluating the findings and information in this section, that the applicant corpo-

ration possesses the ability and competence to furnish engineering or land surveying services, or both, in the public interest.

The board may exercise its discretion to take any of the actions under RCW 18.235.110 with respect to a certificate of authorization issued to a corporation if the board finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of such corporation has engaged in unprofessional conduct as defined in RCW 18.43.105 or 18.235.130 or has been found personally responsible for unprofessional conduct under (f) and (g) of this subsection.

(e) Engineers or land surveyors organized as a professional service corporation under chapter 18.100 RCW are exempt from applying for a certificate of authorization under this chapter.

(f) Any corporation authorized to practice engineering under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered engineer, and must conduct its business without unprofessional conduct in the practice of engineering as defined in this chapter and RCW 18.235.130.

(g) Any corporation that is certified under this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, 18.43.120, and chapter 18.235 RCW.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under this subsection (8) there shall be paid an initial fee determined by the director as provided in RCW 43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086.

(9) The practice of engineering and/or land surveying in this state by a partnership if the partnership employs at least one person holding a valid certificate of registration under this chapter to practice engineering or land surveying, or both. The board shall not issue certificates of authorization to partnerships after July 1, 1998. Partnerships currently registered with the board are not required to pay an annual renewal fee after July 1, 1998.

(10) The practice of engineering or land surveying, or both, in this state by limited liability companies: Provided, That

(a) The limited liability company has filed with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the limited liability company is qualified under this chapter to practice either or both engineering or land surveying in this state.

(b) The limited liability company has filed with the board a certified copy of a resolution by the company manager or managers that shall designate a person holding a certificate of registration under this chapter as being responsible for the practice of engineering or land surveying, or both, by the limited liability company in this state and that the designated person has full authority to make all final engineering

or land surveying decisions on behalf of the limited liability company with respect to work performed by the limited liability company in this state. The resolution shall further state that the limited liability company agreement shall be amended to include the following provision: "The designated engineer or land surveyor, respectively, named in the resolution as being in responsible charge, or an engineer or land surveyor under the designated engineer or land surveyor's direct supervision, shall make all engineering or land surveying decisions pertaining to engineering or land surveying activities in the state of Washington." However, the filing of the resolution shall not relieve the limited liability company of responsibility or liability imposed upon it by law or by contract.

(c) The designated engineer for the limited liability company must hold a current professional engineer license issued by this state.

The designated land surveyor for the limited liability company must hold a current professional land surveyor license issued by this state.

If a person is licensed as both a professional engineer and as a professional land surveyor in this state, then the limited liability company may designate the person as being in responsible charge for both professions.

If there is a change in the designated engineer or designated land surveyor, the limited liability company shall notify the board in writing within thirty days after the effective date of the change. If the limited liability company changes its name, the company shall submit to the board a copy of the certificate of amendment filed with the secretary of state's office.

(d) Upon the filing with the board the application for certificate of authorization, a certified copy of the resolution, an affidavit from the designated engineer or the designated land surveyor, or both, specified in (b) and (c) of this subsection, a copy of the certificate of formation as filed with the secretary of state, and a copy of the company's current business license, the board shall issue to the limited liability company a certificate of authorization to practice engineering or land surveying, or both, in this state upon determination by the board that:

(i) The designated engineer or designated land surveyor, or both, hold a certificate of registration in this state under this chapter and the certificate is in force;

(ii) The designated engineer or designated land surveyor, or both, are not designated in responsible charge for another limited liability company or a corporation;

(iii) The limited liability company is licensed with the secretary of state and has a current unified business identification number and that the board determines, based on evaluating the findings and information under this subsection, that the applicant limited liability company possesses the ability and competence to furnish either or both engineering or land surveying services in the public interest.

The board may exercise its discretion to take any of the actions under RCW 18.235.110 with respect to a certificate of authorization issued to a limited liability company if the board finds that any of the managers or members holding a majority interest in the limited liability company has engaged in unprofessional conduct as defined in RCW 18.43.105 or 18.235.130 or has been found personally responsible for

unprofessional conduct under the provisions of (f) and (g) of this subsection.

(e) Engineers or land surveyors organized as a professional limited liability company are exempt from applying for a certificate of authorization under this chapter.

(f) Any limited liability company authorized to practice engineering or land surveying, or both, under this chapter, together with its manager or managers and members for their own individual acts, are responsible to the same degree as an individual registered engineer or registered land surveyor, and must conduct their business without unprofessional conduct in the practice of engineering or land surveying, or both.

(g) A limited liability company that is certified under this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, 18.43.120, and chapter 18.235 RCW.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a limited liability company under its certificate of authorization shall be prepared by or under the direct supervision of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under this subsection (10) there shall be paid an initial fee determined by the director as provided in RCW 43.24.086 and an annual renewal fee determined by the director as provided in RCW 43.24.086. [2002 c 86 § 227; 1997 c 247 § 4; 1991 c 19 § 6; 1985 c 7 § 46; 1975 1st ex.s. c 30 § 50; 1965 ex.s. c 126 § 2; 1961 c 142 § 5; 1959 c 297 § 7; 1947 c 283 § 16; Rem. Supp. 1947 § 8306-33. Prior: 1935 c 167 § 2; RRS § 8306-2.]

Additional notes found at www.leg.wa.gov

18.43.150 Disposition of fees. All fees collected under the provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, and 18.43.130 and fines collected under RCW 18.43.110 shall be paid into the professional engineers' account, which account is hereby established in the state treasury to be used to carry out the purposes and provisions of RCW 18.43.050, 18.43.060, 18.43.080, 18.43.100, 18.43.110, 18.43.120, 18.43.130, and all other duties required for operation and enforcement of this chapter. During the 2013-2015 and 2015-2017 fiscal biennium [biennia], the legislature may transfer moneys from the professional engineers' account to the state general fund such amounts as reflect the excess fund balance of the fund. [2016 1st sp.s. c 36 § 913; 2013 2nd sp.s. c 4 § 954; 1991 c 277 § 2; 1985 c 57 § 5; 1965 ex.s. c 126 § 3.]

Effective date—2016 1st sp.s. c 36: See note following RCW 18.20.430.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

18.43.160 Certificate of registration or license suspension—Nonpayment or default on educational loan or scholarship. The board shall suspend the certificate of registration or license of any person who has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief

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adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of registration or license shall not be reissued until the person provides the board a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for registration or licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the board may impose. [1996 c 293 § 10.]

Additional notes found at www.leg.wa.gov

18.43.170 Registration suspension—Noncompliance with support order—Reissuance. The board shall immediately suspend the registration of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for membership during the suspension, reissuance of the certificate of registration shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 821.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.43.180 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 228.]

Additional notes found at www.leg.wa.gov

18.43.190 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 5.]

18.43.900 Short title. This chapter shall be known and may be cited as the "Professional Engineers' Registration Act". [1947 c 283 § 19.]

Chapter 18.44 RCW

ESCROW AGENT REGISTRATION ACT

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DEFINITIONS

18.44.011 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Committee" means the escrow advisory committee of the state of Washington created by RCW 18.44.500.

(2) "Controlling person" is any person who owns or controls ten percent or more of the beneficial ownership of any escrow agent, regardless of the form of business organization employed and regardless of whether such interest stands in such person's true name or in the name of a nominee.

(3) "Department" means the department of financial institutions.

(4) "Designated escrow officer" means any licensed escrow officer designated by a licensed escrow agent and approved by the director as the licensed escrow officer responsible for supervising that agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent.

(5) "Director" means the director of financial institutions, or his or her duly authorized representative.

(6) "Director of licensing" means the director of the department of licensing, or his or her duly authorized representative.

(7) "Escrow" means any transaction, except the acts of a qualified intermediary in facilitating an exchange under section 1031 of the internal revenue code, wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof. "Escrow" includes the collection and processing of payments and the performance of related services by a third party on seller-financed loans secured by a lien on real or personal property but excludes vessel transfers.

(8) "Escrow agent" means any person engaged in the business of performing for compensation the duties of the third person referred to in subsection (7) of this section.

(9) "Licensed escrow agent" means any sole proprietorship, firm, association, partnership, or corporation holding a license as an escrow agent under the provisions of this chapter.

(10) "Licensed escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(11) "Person" means a natural person, firm, association, partnership, corporation, limited liability company, or the plural thereof, whether resident, nonresident, citizen, or not.

(12) "Split escrow" means a transaction in which two or more escrow agents act to effect and close an escrow transac-

tion. [2013 c 64 § 1; 2011 1st sp.s. c 21 § 45. Prior: 2010 c 34 § 1; 1999 c 30 § 1; 1995 c 238 § 1; 1985 c 7 § 47; 1979 c 158 § 42; 1977 ex.s. c 156 § 1; 1971 ex.s. c 245 § 1; 1965 c 153 § 1. Formerly RCW 18.44.010.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Additional notes found at www.leg.wa.gov

LICENSING

18.44.021 License required—Exceptions. (1) It shall be unlawful for any person to engage in business as an escrow agent by performing escrows or any of the functions of an escrow agent as described in RCW 18.44.011(7) within this state or with respect to transactions that involve personal property or real property located in this state unless such person possesses a valid license issued by the director pursuant to this chapter. The licensing requirements of this chapter shall not apply to:

(a) Any person doing business under the law of this state or the United States relating to banks, trust companies, mutual savings banks, savings and loan associations, credit unions, insurance companies, or any federally approved agency or lending institution under the national housing act (12 U.S.C. Sec. 1703).

(b) Any person licensed to practice law in this state if:

(i) All escrow transactions are performed by the lawyer while engaged in the practice of law, or by employees of the law practice under the direct supervision of the lawyer while engaged in the practice of law;

(ii) All escrow transactions are performed under a legal entity publicly identified and operated as a law practice; and

(iii) All escrow funds are deposited to, maintained in, and disbursed from a trust account in compliance with rules enacted by the Washington supreme court regulating the conduct of lawyers.

(c) Any real estate company, broker, or agent subject to the jurisdiction of the director of licensing while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by such real estate company, broker, or agent: PROVIDED, That no compensation is received for escrow services.

(d) Any transaction in which money or other property is paid to, deposited with, or transferred to a joint control agent for disbursement or use in payment of the cost of labor, material, services, permits, fees, or other items of expense incurred in the construction of improvements upon real property.

(e) Any receiver, trustee in bankruptcy, executor, administrator, guardian, or other person acting under the supervision or order of any superior court of this state or of any federal court.

(f) Title insurance companies having a valid certificate of authority issued by the insurance commissioner of this state and title insurance agents having a valid license as a title insurance agent issued by the insurance commissioner of this state.

(2) The director may at his or her discretion waive applicability of the licensing provisions of this chapter if the director determines it necessary to facilitate commerce or protect consumers. The director may adopt rules interpreting this section. [2015 c 229 § 1; 2012 c 124 § 1; 2010 c 34 § 2; 1999

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c 30 § 2; 1977 ex.s. c 156 § 2; 1971 ex.s. c 245 § 2; 1967 ex.s. c 76 § 1; 1965 c 153 § 2. Formerly RCW 18.44.020.]

18.44.023 Multistate licensing system—Director's discretion. Applicants may be required to make application through a multistate licensing system as prescribed by the director. Existing licensees may be required to transition onto a multistate licensing system as prescribed by the director. [2012 c 17 § 15.]

18.44.031 License—Application, requisites. An application for an escrow agent license must be in writing in such form as is prescribed by the director, and must be verified on oath by the applicant. An application for an escrow agent license must include the following:

(1) The applicant's form of business organization and place of organization;

(2) Information concerning the identity of the applicant, and its officers, directors, owners, partners, controlling persons, and employees, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any government agency or subdivision authorized to receive information for state and national criminal history background checks; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. The director may also request criminal history record information, including nonconviction data, as defined by RCW 10.97.030. The department may disseminate nonconviction data obtained under this section only to criminal justice agencies. The applicant must pay the cost of fingerprinting and processing the fingerprints by the department;

(3) If the applicant is a corporation or limited liability company, the address of its physical location, a list of officers, controlling persons, and directors of such corporation or company and their residential addresses, telephone numbers, and other identifying information as the director may determine by rule. If the applicant is a sole proprietorship or partnership, the address of its business location, a list of owners, partners, or controlling persons and their residential addresses, telephone numbers, and other identifying information as the director may determine by rule. Any information in the application regarding the personal residential address or telephone number of any officer, director, partner, owner, controlling person, or employee is exempt from the public records disclosure requirements of chapter 42.56 RCW;

(4) In the event the applicant is doing business under an assumed name, a copy of the business license issued through the business licensing system established under chapter 19.02 RCW, with the registered trade name shown;

(5) The qualifications and business history of the applicant and all of its officers, directors, owners, partners, and controlling persons;

(6) A personal credit report from a recognized credit reporting bureau satisfactory to the director on all officers, directors, owners, partners, and controlling persons of the applicant;

(7) Whether any of the officers, directors, owners, partners, or controlling persons have been convicted of any crime within the preceding ten years which relates directly to the business or duties of escrow agents, or have suffered a judg-

ment within the preceding five years in any civil action involving fraud, misrepresentation, any unfair or deceptive act or practice, or conversion;

(8) The identity of the licensed escrow officer designated by the escrow agent as the designated escrow officer responsible for supervising the agent's escrow activity;

(9) Evidence of compliance with the bonding and insurance requirements of RCW 18.44.201; and

(10) Any other information the director may require by rule. The director may share any information contained within a license application, including fingerprints, with the federal bureau of investigation and other regulatory or law enforcement agencies. [2013 c 144 § 12; 2010 c 34 § 3; 2005 c 274 § 224; 1999 c 30 § 3; 1977 ex.s. c 156 § 3; 1965 c 153 § 3. Formerly RCW 18.44.030.]

Additional notes found at www.leg.wa.gov

18.44.041 Branch offices—Application to establish—Requirements. (1) A licensed escrow agent shall not operate an escrow business in a location other than the location set forth on the agent's license or branch office license issued by the director. The licensed escrow agent may apply to the director for authority to establish one or more branch offices under the same name as the main office.

(2) Each branch office operated by a licensed escrow agent shall be supervised by a licensed escrow officer designated by the licensed escrow agent as the designated branch escrow officer for that branch.

(3) Any person desiring to operate a branch escrow office shall make application on a form provided by the director and pay a fee as set forth in rule by the director. Such application shall identify the licensed escrow officer designated as the designated branch escrow officer to supervise the agent's escrow activity at the branch office.

(4) No escrow agent branch office license shall be issued until the applicant has satisfied the director that the escrow activity of the branch meets all financial responsibility requirements governing the conduct of escrow activity. [1999 c 30 § 28; 1977 ex.s. c 156 § 26. Formerly RCW 18.44.330.]

18.44.051 Branch offices—Issuance of license. Upon the filing of the application for an escrow agent branch office and satisfying the requirements of this chapter, the director shall issue and deliver to the applicant a license to engage in the business of an escrow agent at the branch location set forth on the license. [1999 c 30 § 29; 1977 ex.s. c 156 § 27. Formerly RCW 18.44.340.]

18.44.061 Change in business location, office location, business name—Written notice required. A licensed escrow agent shall provide notice in writing to the director and to the insurer providing coverage under RCW 18.44.201 of any change of business location, branch office location, or business name. Such notice shall be given in a form prescribed by the director and shall be delivered at least ten business days prior to the change in business location or name. Upon the surrender of the original license for the agent or the applicable branch office and a payment of a fee, the director shall issue a new license for the new location. [1999 c 30 § 7; 1977 ex.s. c 156 § 19. Formerly RCW 18.44.067.]

18.44.071 Escrow officer required for handling transactions—Responsibility of designated escrow officer—Branch escrow officers. Every licensed escrow agent shall ensure that all escrow transactions are supervised by a licensed escrow officer. In the case of a partnership, the designated escrow officer shall be a partner in the partnership and shall act on behalf of the partnership. In the case of a corporation, the designated escrow officer shall be an officer of the corporation and shall act on behalf of the corporation. The designated escrow officer shall be responsible for that agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent. Responsibility for the conduct of any licensed escrow officer covered by this chapter shall rest with the designated escrow officer or designated branch escrow officer having direct supervision of such person's escrow activities. The branch designated escrow officer shall bear responsibility for supervision of all other licensed escrow officers or other persons performing escrow transactions at a branch escrow office. [1999 c 30 § 21; 1977 ex.s. c 156 § 11; 1971 ex.s. c 245 § 7. Formerly RCW 18.44.200.]

18.44.081 Escrow officer's license—Application—Form—Timely filing—Proof of moral character, etc. Any person desiring to be a licensed escrow officer shall meet the requirements of RCW 18.44.195 as provided in this chapter. The applicant shall make application endorsed by a licensed escrow agent to the director on a form to be prescribed and furnished by the director. Such application must be received by the director within one year of passing the escrow officer examination. With this application the applicant shall:

(1) Pay a license fee as set forth by rule; and

(2) Furnish such proof as the director may require concerning his or her honesty, truthfulness, good reputation, and identity, including but not limited to fingerprints, residential address and telephone number, qualifications and employment history, a personal credit report, and any other information required under RCW 18.44.031. [1999 c 30 § 24; 1995 c 238 § 4; 1977 ex.s. c 156 § 22. Formerly RCW 18.44.290.]

Additional notes found at www.leg.wa.gov

18.44.091 License—Fees—Renewal. Every escrow officer license issued under the provisions of this chapter expires on the date one year from the date of issue which date will henceforth be the renewal date. An annual license renewal fee in the same amount must be paid on or before each renewal date: PROVIDED, That licenses issued or renewed prior to September 21, 1977, shall use the existing renewal date as the date of issue. If the application for a license renewal is not received by the director on or before the renewal date such license is expired and any activity conducted is unlicensed activity in violation of this chapter. The license may be reinstated at any time prior to sixty days after renewal upon the payment to the director of the annual renewal fee. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency. Licenses not renewed within sixty days after the renewal date shall be canceled. A new license may be obtained by satisfying the procedures and qualifications for initial licensing, including where applicable successful com-

pletion of examinations. [2010 c 34 § 5; 1999 c 30 § 25; 1985 c 340 § 5; 1977 ex.s. c 156 § 23. Formerly RCW 18.44.300.]

18.44.101 License—Retention and display by agent—Termination—Inactive licenses. The license of a licensed escrow officer shall be retained and displayed at all times by the licensed escrow agent. When the officer ceases for any reason to represent the agent, the license shall cease to be in force. Within three business days of termination of the licensed escrow officer's employment, the licensed escrow agent shall notify the director that the terminated escrow officer no longer represents the escrow agent. Within ten business days of termination of the licensed escrow officer's employment, the licensed escrow agent shall deliver the surrendered escrow officer license to the director. Failure to notify the director within three business days or deliver the surrendered license to the director within ten business days shall, at the discretion of the director, subject the escrow agent to penalties under RCW 18.44.430.

The director may hold the licensed escrow officer's license inactive upon notification of termination by the escrow agent or designated escrow officer. The licensed escrow officer shall pay the renewal fee annually to maintain an inactive license. An inactive license may be activated upon application of a licensed escrow agent on a form provided by the director and the payment of a fee. If the licensed escrow officer continues to meet the requirements of licensing in RCW 18.44.081, the director shall thereupon issue a new license for the unexpired term of the licensed escrow officer. An escrow officer's first license shall not be issued inactive. [1999 c 30 § 26; 1989 c 51 § 1; 1985 c 340 § 6; 1977 ex.s. c 156 § 24. Formerly RCW 18.44.310.]

18.44.111 Licenses—Form and size—Contents. Each escrow agent license, each escrow agent branch office license, and each escrow officer license shall be issued in the form and size prescribed by the director and shall state in addition to any other matter required by the director:

- (1) The name of the licensee;
- (2) The name under which the applicant will do business;
- (3) The address at which the applicant will do business;
- (4) The expiration date of the license; and
- (5) In the case of a corporation, partnership, or branch office, the name of the designated escrow officer or designated branch escrow officer. [1999 c 30 § 30; 1977 ex.s. c 156 § 28. Formerly RCW 18.44.350.]

18.44.121 Fees. (1) The director shall charge and collect the following fees:

(a) A fee for filing an original or a renewal application for an escrow agent license, a fee for each application for an additional licensed location, a fee for an application for a change of address for an escrow agent, annual fees for the first office or location and for each additional office or location, and under RCW 43.135.055 the director shall set the annual fee for an escrow agent license up to five hundred sixty-five dollars in fiscal year 2000.

(b) A fee for filing an original or a renewal application for an escrow officer license, a fee for an application for a change of address for each escrow officer license being so changed, a fee to activate an inactive escrow officer license

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or transfer an escrow officer license, and under RCW 43.135.055 the director shall set the annual fee for an escrow officer license up to two hundred thirty-five dollars in fiscal year 2000.

(c) A fee for filing an application for a duplicate of an escrow agent license or of an escrow officer license lost, stolen, destroyed, or for replacement.

(d) A fee for providing license examinations.

(e) An hourly audit fee. In setting this fee, the director shall ensure that every examination and audit, or any part of the examination or audit, of any person licensed or subject to licensing in this state requiring travel and services outside this state by the director or by employees designated by the director, shall be at the expense of the person examined or audited at the hourly rate established by the director, plus the per diem compensation and actual travel expenses incurred by the director or his or her employees conducting the examination or audit. When making any examination or audit under this chapter, the director may retain attorneys, appraisers, independent certified public accountants, or other professionals and specialists as examiners or auditors, the cost of which shall be borne by the person who is the subject of the examination or audit.

(2) In establishing these fees, the director shall set the fees at a sufficient level to defray the costs of administering this chapter.

(3) All fees received by the director under this chapter shall be paid into the state treasury to the credit of the financial services regulation fund. [2010 c 34 § 6; 2001 c 177 § 3; 1999 c 30 § 10; 1995 c 238 § 2; 1985 c 340 § 1; 1977 ex.s. c 156 § 7; 1971 ex.s. c 245 § 5; 1965 c 153 § 8. Formerly RCW 18.44.080.]

Additional notes found at www.leg.wa.gov

18.44.127 Certificate of registration suspension—Noncompliance with support order—Reissuance. The department shall immediately suspend the certificate of registration of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 822.]

*Reviser's note: 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.44.131 License application—Issuance. Upon the filing of the application for an escrow agent license on a form provided by the director and satisfying the requirements as set forth in this chapter, the director shall issue and deliver to the applicant a license to engage in the business of an escrow agent at the location set forth in the license. [1999 c 30 § 11;

1977 ex.s. c 156 § 8; 1965 c 153 § 9. Formerly RCW 18.44.090.]

18.44.141 License—Duration—Posting. An escrow agent's license shall remain in effect until surrendered, revoked, suspended, or until it expires, and shall at all times be kept conspicuously posted in all places of business of the agent. [1999 c 30 § 12; 1965 c 153 § 10. Formerly RCW 18.44.100.]

18.44.151 License—Expiration and renewal—Fee. Each escrow agent's license shall expire at noon on the thirty-first day of December of any calendar year. The license may be renewed by filing an application and paying the annual license fee for the next succeeding calendar year. [1999 c 30 § 13; 1985 c 340 § 2; 1965 c 153 § 11. Formerly RCW 18.44.110.]

18.44.161 License—Reinstatement. An escrow agent's license which has not been renewed may be reinstated at any time prior to the thirtieth day of January following its expiration, upon the payment to the director of the annual license fees then in default and a penalty equal to one-half of the annual license fees then in default. [1999 c 30 § 14; 1965 c 153 § 12. Formerly RCW 18.44.120.]

18.44.171 Engaging in business without license—Penalty. Any person required by this chapter to obtain a license who engages in business as an escrow agent without applying for and receiving the license required by this chapter, or willfully continues to act as an escrow agent or licensed escrow officer after surrender, expiration, suspension, or revocation of his or her license, is guilty of a misdemeanor punishable by imprisonment for not more than ninety days, or by a fine of not more than one hundred dollars per day for each day's violation, or by both such fine and imprisonment. [1999 c 30 § 17; 1965 c 153 § 14. Formerly RCW 18.44.140.]

Date for initial compliance: "All persons doing business within this state as an escrow agent as defined in this act, who may be required by this act to register with the department, shall comply with the provisions hereof not later than December 31, 1965." [1965 c 153 § 15.]

18.44.181 Proof of licensure prerequisite to action for fee. No person engaged in the business or acting in the capacity of an escrow agent may bring or maintain any action in any court of this state for the collection or compensation for the performances of any services entered upon after December 31, 1965, for which licensing is required under this chapter without alleging and proving that he or she was a duly licensed escrow agent at the time of commencement of such services. [1999 c 30 § 20; 1965 c 153 § 19. Formerly RCW 18.44.180.]

18.44.191 Director—Educational conferences—Examinations. The director shall have the authority to hold educational conferences for the benefit of the industry and shall conduct examinations for licenses as an escrow officer. [1977 ex.s. c 156 § 15; 1971 ex.s. c 245 § 12. Formerly RCW 18.44.250.]

18.44.195 Examination. (1) Any person desiring to become a licensed escrow officer must successfully pass an examination as required by the director.

(2) The examination shall be in such form as prescribed by the director with the advice of the committee. [2011 1st sp.s. c 21 § 48; 2010 c 34 § 9; 1999 c 30 § 4.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

BONDING

18.44.201 Financial responsibility—Fidelity bond—Errors and omissions policy—Surety bond. (1) At the time of filing an application for an escrow agent license, or any renewal or reinstatement of an escrow agent license, the applicant shall provide satisfactory evidence to the director of having obtained the following as evidence of financial responsibility:

(a) A fidelity bond providing coverage in the aggregate amount of one million dollars with a deductible no greater than ten thousand dollars covering each corporate officer, partner, escrow officer, and employee of the applicant engaged in escrow transactions;

(b) An errors and omissions policy issued to the escrow agent providing coverage in the minimum aggregate amount of fifty thousand dollars or, alternatively, cash or securities in the principal amount of fifty thousand dollars deposited in an approved depository on condition that they be available for payment of any claim payable under an equivalent errors and omissions policy in that amount and pursuant to rules and regulations adopted by the department for that purpose; and

(c) A surety bond in the amount of ten thousand dollars executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, unless the fidelity bond obtained by the licensee to satisfy the requirement in (a) of this subsection does not have a deductible. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its employee's violation of this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090.

(2) For the purposes of this section, a "fidelity bond" shall mean a primary commercial blanket bond or its equivalent satisfactory to the director and written by an insurer authorized to transact this line of business in the state of Washington. Such bond shall provide fidelity coverage for any fraudulent or dishonest acts committed by any one or more of the corporate officers, partners, sole practitioners, escrow officers, and employees of the applicant engaged in escrow transactions acting alone or in collusion with others. This bond shall be for the sole benefit of the escrow agent and under no circumstances whatsoever shall the bonding company be liable under the bond to any other party unless the corporate officer, partner, or sole practitioner commits a fraudulent or dishonest act, in which case, the bond shall be for the benefit of the harmed consumer. The bond shall name the escrow agent as obligee and shall protect the obligee against the loss of money or other real or personal property belonging to the obligee, or in which the obligee has a pecuniary interest, or for which the obligee is legally liable or held by the obligee in any capacity, whether the obligee is legally liable therefor or not. An escrow agent's bond must be maintained until all accounts have been reconciled and the escrow trust account balance is zero. The bond may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent. In the event that the fidelity bond required under this subsection is not reasonably available, the director may adopt rules to implement a surety bond requirement.

(3) For the purposes of this section, an "errors and omissions policy" shall mean a group or individual insurance policy satisfactory to the director and issued by an insurer authorized to transact insurance business in the state of Washington. Such policy shall provide coverage for unintentional errors and omissions of the escrow agent and its employees, and may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

(4) Except as provided in RCW 18.44.221, the fidelity bond, surety bond, and the errors and omissions policy required by this section shall be kept in full force and effect as a condition precedent to the escrow agent's authority to transact escrow business in this state, and the escrow agent shall supply the director with satisfactory evidence thereof upon request. [2013 c 64 § 4; 2010 c 34 § 7; 1999 c 30 § 5; 1979 c 70 § 1; 1977 ex.s. c 156 § 5; 1971 ex.s. c 245 § 4; 1965 c 153 § 5. Formerly RCW 18.44.050.]

18.44.211 Cancellation of fidelity bond or surety bond, or both—New bond required. In the event of cancellation of either the fidelity bond, the surety bond, or both, the director shall require the filing of a new bond or bonds. Failure to provide the director with satisfactory evidence of a new bond after receipt by the director of notification that one is required or by the effective date of the cancellation notice, whichever is later, shall be sufficient grounds for the suspension or revocation of the escrow agent's license. [1999 c 30 § 6; 1965 c 153 § 6. Formerly RCW 18.44.060.]

18.44.221 Waiver of bond or policy where not reasonably available—Determination procedure—Waiver period. The director shall, within thirty days after a written request, hold a public hearing to determine whether the fidel-

ity bond, surety bond, and/or the errors and omissions policy specified in RCW 18.44.201 is reasonably available to a substantial number of licensed escrow agents. If the director determines and the insurance commissioner concurs that such bond or bonds and/or policy is not reasonably available, the director shall waive the requirements for such bond or bonds and/or policy for a fixed period of time. [2011 1st sp.s. c 21 § 46; 1999 c 30 § 31; 1988 c 178 § 2; 1977 ex.s. c 156 § 30. Formerly RCW 18.44.360.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Additional notes found at www.leg.wa.gov

18.44.231 Corporation for insuring where bond or policy not reasonably available. After a written determination by the director, with the consent of the insurance commissioner, that the fidelity bond, the surety bond, and/or the errors and omissions policy required under RCW 18.44.201 is cost-prohibitive, or after a determination as provided in RCW 18.44.221 that such bond or policy is not reasonably available, an association comprised of licensed escrow agents, with the consent of the insurance commissioner, may organize a corporation pursuant to chapter 24.06 RCW, exempt from the provisions of Title 48 RCW, for the purpose of insuring or self-insuring against claims arising out of escrow transactions. The insurance commissioner may limit the authority of the corporation to the insuring or self-insuring of claims which would be within the coverage specified in RCW 18.44.201. The insurance commissioner may revoke the authority of the corporation to transact insurance or self-insurance if he or she determines, pursuant to chapter 34.05 RCW, that the corporation is not acting in a financially responsible manner or for the benefit of the public. [1999 c 30 § 32; 1987 c 471 § 4; 1977 ex.s. c 156 § 31. Formerly RCW 18.44.370.]

Additional notes found at www.leg.wa.gov

18.44.241 Waiver of errors and omissions policy requirement—Criteria. The following criteria will be considered by the director when deciding whether to grant a licensed escrow agent a waiver from the errors and omissions policy requirement under RCW 18.44.201:

(1) Whether the director has determined pursuant to RCW 18.44.221 that an errors and omissions policy is not reasonably available to a substantial number of licensed escrow agents;

(2) Whether purchasing an errors and omissions policy would be cost-prohibitive for the licensed escrow agent requesting the exemption;

(3) Whether a licensed escrow agent has wilfully violated the provisions of chapter 18.44 RCW, which violation thereby resulted in the termination of the agent's certificate, or engaged in any other conduct resulting in the termination of the escrow certificate;

(4) Whether a licensed escrow agent has paid claims directly or through an errors and omissions carrier, exclusive of costs and attorney fees, in excess of ten thousand dollars in the calendar year preceding the year for which the waiver is requested;

(5) Whether a licensed escrow agent has paid claims directly or through an errors or omissions insurance carrier, exclusive of costs and attorney fees, totaling in excess of twenty thousand dollars in the three calendar years preceding the calendar year for which the exemption is requested; and

(6) Whether the licensed escrow agent has been convicted of a crime involving honesty or moral turpitude.

These criteria are not intended to be a wholly inclusive list of factors to be applied by the director when considering the merits of a licensed escrow agent's request for a waiver of the required errors and omissions policy. [2000 c 171 § 12; 1987 c 471 § 5. Formerly RCW 18.44.375.]

Additional notes found at www.leg.wa.gov

18.44.251 Waiver—Affidavit. A request for a waiver of the required errors and omissions policy may be accomplished under the statute by submitting to the director an affidavit that substantially addresses the following:

REQUEST FOR WAIVER OF ERRORS AND OMISSIONS POLICY

I,, residing at, City of, County of, State of Washington, declare the following:

(1) An errors and omissions policy is not reasonably available to a substantial number of licensed escrow officers; and

(2) Purchasing an errors and omissions policy is cost-prohibitive at this time; and

(3) I have not engaged in any conduct that resulted in the termination of my escrow certificate; and

(4) I have not paid, directly or through an errors and omissions policy, claims in excess of ten thousand dollars, exclusive of costs and attorneys' fees, during the calendar year preceding submission of this affidavit; and

(5) I have not paid, directly or through an errors and omissions policy, claims, exclusive of costs and attorneys' fees, totaling in excess of twenty thousand dollars in the three calendar years immediately preceding submission of this affidavit; and

(6) I have not been convicted of a crime involving honesty or moral turpitude during the calendar year preceding submission of this application.

THEREFORE, in consideration of the above, I,, respectfully request that the director of financial institutions grant this request for a waiver of the requirement that I purchase and maintain an errors and omissions policy covering my activities as an escrow agent licensed by the state of Washington for the period from (year), to (year)

Submitted this day of day of, (year)

. (signature)

State of Washington, }
County of }

ss.

I certify that I know or have satisfactory evidence that, signed this instrument and acknowledged it to be free and voluntary act for the uses and purposes mentioned in the instrument.

Dated
Signature of
Notary Public
Title
My appointment expires

(Seal or stamp)

[2016 c 202 § 21; 2011 1st sp.s. c 21 § 47; 1995 c 238 § 5; 1987 c 471 § 10. Formerly RCW 18.44.380.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Additional notes found at www.leg.wa.gov

18.44.261 Waiver—Determination. The director shall, within thirty days following submission of a written petition for waiver of the insurance requirements found in RCW 18.44.201, issue a written determination granting or rejecting an applicant's request for waiver. [2000 c 171 § 13; 1987 c 471 § 6. Formerly RCW 18.44.385.]

Additional notes found at www.leg.wa.gov

18.44.270 Application of administrative procedure act. The proceedings for revocation, suspension, or refusal to renew or accept an application for renewal of an escrow agent's registration or escrow officer license, and any appeal therefrom or review thereof shall be governed by the provisions of chapter 34.05 RCW. [1977 ex.s. c 156 § 17; 1971 ex.s. c 245 § 14.]

18.44.271 Waiver—Certificate of waiver. Upon granting a waiver of insurance requirements found in RCW 18.44.201, the director shall issue a certificate of waiver, which certificate shall be mailed to the escrow agent who requested the waiver. [2000 c 171 § 14; 1987 c 471 § 7. Formerly RCW 18.44.390.]

Additional notes found at www.leg.wa.gov

18.44.281 Waiver—Denial. Upon determining that a licensed escrow agent is to be denied a waiver of the errors and omissions policy requirements of RCW 18.44.201, the director shall within thirty days of the denial of an escrow agent's request for same, provide to the escrow agent a written explanation of the reasons for the director's decision to deny the requested waiver. [2000 c 171 § 15; 1987 c 471 § 8. Formerly RCW 18.44.395.]

Additional notes found at www.leg.wa.gov

18.44.291 Waiver—Application by escrow license applicant. Nothing in RCW 18.44.201, 18.44.241 through 18.44.261, 18.44.271, and 18.44.281 shall be construed as prohibiting a person applying for an escrow license from applying for a certificate of waiver of the errors and omissions policy requirement when seeking an escrow license. [2000 c 171 § 16; 1987 c 471 § 9. Formerly RCW 18.44.398.]

Additional notes found at www.leg.wa.gov

PROHIBITED PRACTICES

18.44.301 Prohibited practices. It is a violation of this chapter for any escrow agent, controlling person, officer, designated escrow officer, independent contractor, employee of an escrow business, or other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Knowingly make, publish, or disseminate any false, deceptive, or misleading information in the conduct of the business of escrow, or relative to the business of escrow or relative to any person engaged therein;

(5) Knowingly receive or take possession for personal use of any property of any escrow business, other than in payment authorized by this chapter, and with intent to defraud, omit to make, or cause or direct to be made, a full and true entry thereof in the books and accounts of the business;

(6) Make or concur in making any false entry, or omit or concur in omitting to make any material entry, in its books or accounts;

(7) Knowingly make or publish, or concur in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein;

(8) Willfully fail to make any proper entry in the books of the escrow business as required by law;

(9) Fail to disclose in a timely manner to the other officers, directors, controlling persons, designated escrow officer, or other licensed escrow officers the receipt of service of a notice of an application for an injunction or other legal process affecting the property or business of an escrow agent, including in the case of a licensed escrow agent an order to cease and desist or other order of the director;

(10) Fail to make any report or statement lawfully required by the director or other public official;

(11) Fail to comply with any requirement of any applicable federal or state act including the truth in lending act, 15 U.S.C. Sec. 1601 et seq. and Regulation Z, 12 C.F.R. Sec. 226; the real estate settlement procedures act, 12 U.S.C. Sec. 2601 et seq. and Regulation X, 24 C.F.R. Sec. 3500; the equal credit opportunity act, 15 U.S.C. Sec. 1691 et seq. and Regulation B, Sec. 202.9, 202.11, and 202.12; Title V, Subtitle A of the financial modernization act of 1999 (known as the Gramm-Leach-Bliley act), 12 U.S.C. Secs. 6801-6809; the federal trade commission's privacy rules, 16 C.F.R. Secs. 313-314, mandated by the Gramm-Leach-Bliley act; as these acts existed on January 1, 2007, or such subsequent date as may be provided by the department by rule, or any other applicable escrow activities covered by the acts; or

(12) Collecting [Collect] a fee for tracking unclaimed funds unless it is a bona fide out-of-pocket expense or converting [convert] unclaimed funds for personal use. [2010 c 34 § 8; 1999 c 30 § 9.]

18.44.305 Financial interest in an escrow agent—Prohibited practices. (1) An escrow agent, officer or employee of any escrow agent, or person who has a financial interest in an escrow agent shall not, directly or indirectly, give any fee, kickback, payment, or other thing of value to any person as an inducement, reward for placing business, referring business, or causing title insurance business to be

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given to a title insurance agent in which the escrow agent or person having a financial interest in the escrow agent also has a financial interest.

(2) An escrow agent or person who has a financial interest in an escrow agent shall not either solicit or accept, or both, anything of value from: A title insurance company, a title insurance agent, or the employees or representatives of a title insurance company or title insurance agent, that a title insurance company or title insurance agent is not permitted by law or rule to give to the escrow agent or person who has a financial interest in the escrow agent.

(3) An escrow agent or person who has a financial interest in an escrow agent shall not prevent or deter a title insurance company, title insurance agent, or their employees or representatives from delivering to an escrow agent or its employees, independent contractors, and clients printed promotional material concerning only title insurance services as long as:

(a) The material is business appropriate and is not misleading or false;

(b) The material does not malign the escrow agent, its employees, independent contractors, or affiliates;

(c) The delivery of the materials is limited to those areas of the escrow agent's physical office reserved for unrestricted public access; and

(d) The conduct of the employees or representatives are appropriate for a business setting and do not threaten the safety or health of anyone in the escrow agent's office.

(4) An escrow agent shall not require a consumer, as a condition of providing real estate settlement services, to obtain title insurance from a title insurance agent in which the escrow agent has a financial interest. [2008 c 110 § 11.]

18.44.311 Prohibited employment practices. (1) A licensed escrow agent may not directly or indirectly employ a person who will be handling escrow transactions who has been convicted of, or pled guilty or nolo contendere to, a felony or a gross misdemeanor involving dishonesty within the last seven years.

(2) A licensed escrow agent may not directly or indirectly employ a person who receives money for trust accounts, disburses funds, or acts as a signatory on trust accounts if the person has shown a disregard in the management of his or her financial condition in the last three years.

(3) The director may adopt rules to implement this section. [2010 c 34 § 4.]

ENFORCEMENT

18.44.400 Records and accounts—Segregation and disbursements of funds—Violation of section, penalties.

(1) Every licensed escrow agent shall keep adequate records, as determined by rule by the director, of all transactions handled by or through the agent including itemization of all receipts and disbursements of each transaction. These records shall be maintained in this state, unless otherwise approved by the director, for a period of six years from completion of the transaction. These records shall be open to inspection by the director or the director's authorized representatives.

(2) Every licensed escrow agent shall keep separate escrow fund accounts as determined by rule by the director in

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recognized Washington state depositories authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

(3) An escrow agent, unless exempted by *RCW 18.44.021(2), shall not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. An escrow agent shall not make disbursements until the next business day after the business day on which the funds are deposited unless the deposit is made in cash, by interbank electronic transfer, or in a form that permits conversion of the deposit to cash on the same day the deposit is made. The deposits shall be in one of the following forms:

(a) Cash;

(b) Interbank electronic transfers such that the funds are unconditionally received by the escrow agent or the agent's depository;

(c) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state;

(d) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or

(e) Any depository check, including any cashier's check, certified check, or teller's check, which is governed by the provisions of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.

(4) For purposes of this section, the word "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

(5) Violation of this section shall subject an escrow agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86 RCW and shall constitute grounds for suspension or revocation of the license of any licensed escrow agent or licensed escrow officer. In addition, an escrow agent who is required to be licensed under this chapter and who violates this section or an individual who is required to be licensed as an escrow officer under this chapter and who violates this section, may be subject to penalties as prescribed in RCW 18.44.430. [1999 c 30 § 8; 1990 c 203 § 1; 1988 c 178 § 1; 1977 ex.s. c 156 § 6; 1965 c 153 § 7. Formerly RCW 18.44.070.]

*Reviser's note: RCW 18.44.021 was amended by 2015 c 229 § 1, changing subsection (2) to subsection (1)(b).

Additional notes found at www.leg.wa.gov

18.44.410 Powers of director. (1) The director has the power and broad administrative discretion to administer and interpret this chapter to facilitate the delivery of services to citizens of this state by escrow agents and others subject to this chapter.

(2) The director may issue rules and regulations to govern the activities of licensed escrow agents and escrow officers. The director shall enforce all laws and rules relating to the licensing of escrow agents and escrow officers and fix the time and places for holding examinations of applicants for licenses and prescribe the method of conducting the examina-

tions. The director may hold hearings and suspend or revoke the licenses of violators and may deny, suspend, or revoke the authority of an escrow officer to act as the designated escrow officer of a person who commits violations of this chapter or of the rules under this chapter.

Except as specifically provided in this chapter, the rules adopted and the hearings conducted shall be in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act. [1999 c 30 § 27; 1977 ex.s. c 156 § 25. Formerly RCW 18.44.320.]

18.44.413 Informal settlement of complaints or enforcement actions. Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department for purposes of financial literacy and education programs authorized under RCW 43.320.150. [2012 c 17 § 14.]

18.44.420 Investigation of violations—Procedure—Powers of director. The director may:

(1) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; or

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the director determines, as to all facts and circumstances concerning the matter to be investigated.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths or affirmations, and upon his or her own motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.05 RCW. [1999 c 30 § 23; 1977 ex.s. c 156 § 21. Formerly RCW 18.44.280.]

18.44.425 Subpoena authority—Application—Contents—Notice—Fees. (1) The director or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2011 c 93 § 2.]

Finding—Intent—2011 c 93: "The legislature finds that in the case of *State v. Miles*, the state supreme court held that Article I, section 7 of the state Constitution requires judicial review of a subpoena under some circumstances. The legislature intends to provide a process for the department to apply for court approval of an agency investigative subpoena that is authorized under law in cases when the agency seeks approval, or when court approval is required by Article I, section 7 of the state Constitution. The legislature does not intend to require court approval except when otherwise required by law or Article I, section 7 of the state Constitution." [2011 c 93 § 1.]

18.44.430 Actions against license—Grounds. (1) The director may, upon notice to the escrow agent and to the insurer providing coverage under RCW 18.44.201, deny, suspend, decline to renew, or revoke the license of any escrow agent or escrow officer if the director finds that the applicant or any partner, officer, director, controlling person, or employee has committed any of the following acts or engaged in any of the following conduct:

(a) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director.

(b) Violating any of the provisions of this chapter or any lawful rules made by the director pursuant thereto.

(c) The commission of a crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings.

(d) Knowingly committing or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the licensee or agent or any partner, officer, director, controlling person, or employee acts to his or her injury or damage.

(e) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract, or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion.

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(f) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book, or record in his or her possession for inspection of, the director or his or her authorized representatives.

(g) Committing any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter.

(h) Accepting, taking, or charging any undisclosed commission, rebate, or direct profit on expenditures made for the principal.

(i) Committing acts or engaging in conduct that demonstrates the applicant or licensee to be incompetent or untrustworthy, or a source of injury and loss to the public.

(2) Any conduct of an applicant or licensee that constitutes grounds for enforcement action under this chapter is sufficient regardless of whether the conduct took place within or outside of the state of Washington.

(3) In addition to or in lieu of a license suspension, revocation, or denial, the director may assess a fine of up to one hundred dollars per day for each violation of this chapter or rules adopted under this chapter and may remove and/or prohibit from participation in the conduct of the affairs of any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow officer. The statute of limitations on actions not subject to RCW 4.16.160 that are brought under this chapter by the director is five years.

(4) In addition to or in lieu of (a) a license suspension, revocation, or denial, or (b) fines payable to the department, the director may order an escrow agent, officer, controlling person, director, employee, or licensed escrow officer violating this chapter to make restitution to an injured consumer. [2014 c 36 § 1; 2010 c 34 § 10; 1999 c 30 § 22; 1977 ex.s. c 156 § 16; 1971 ex.s. c 245 § 13. Formerly RCW 18.44.260.]

18.44.440 Violations—Cease and desist orders. If the director determines after notice and hearing that a person has:

(1) Violated any provision of this chapter; or

(2) Directly, or through an agent or employee, engaged in any false, unfair and deceptive, or misleading:

(a) Advertising or promotional activity; or

(b) Business practices; or

(3) Violated any lawful order or rule of the director; the director may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the director will carry out the purposes of this chapter.

If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether or not the order becomes permanent. [1999 c 30 § 19; 1977 ex.s. c 156 § 20. Formerly RCW 18.44.175.]

18.44.450 Referral fees prohibited—Consumer protection act—Application. (1) "Real property lender" as used in this section means a bank, savings bank, savings and loan association, credit union, mortgage company, or other

corporation, association, or partnership that makes loans secured by real property located in this state.

(2) No real property lender, escrow agent, or officer or employee of any escrow agent or real property lender may give or agree to pay or give any money, service, or object of value to any real estate agent or broker, to any real property lender, or to any officer or employee of any agent, broker, or lender in return for the referral of any real estate escrow services. Nothing in this subsection prohibits the payment of fees or other compensation permitted under the federal Real Estate Settlement Procedures Act as amended (12 U.S.C. sections 2601 through 2617).

(3) The legislature finds that the practices governed by this subsection are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Any violation of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive. [2000 c 171 § 17; 1999 c 30 § 33; 1988 c 178 § 3. Formerly RCW 18.44.145.]

Additional notes found at www.leg.wa.gov

18.44.455 Possession of property and business—Grounds for director's authority. (1) The director may immediately take possession of the property and business of a licensee whenever it appears to the director that, as a result of an examination, report, investigation, or complaint:

(a) The licensee is conducting its business in such an unsafe or unsound manner as to render its further operations hazardous to the public;

(b) The licensee has suspended payment of its trust obligations; or

(c) The licensee neglects or refuses to comply with any order of the director made pursuant to this chapter unless the enforcement of such an order is restrained in a proceeding brought by the licensee.

(2) The director may retain possession of the licensee's property and business until the licensee resumes business or its affairs are finally liquidated as provided in RCW 18.44.470. The licensee may only resume business upon those terms as the director may prescribe. [2010 c 34 § 11.]

18.44.457 Possession of property and business—Scope of director's authority. (1) During the time that the director retains possession of the property and business of a licensee, the director has the power and authority to conduct the licensee's business and take any action on behalf of the licensee to protect consumers, including but not limited to discontinuing any violations and unsafe or injurious practices, making good any deficiencies, and making claims against the licensee's fidelity bond, errors and omissions bond, or surety bond on behalf of the company.

(2) The director, the department, and its employees are not subject to liability for actions under this section and RCW 18.44.455 and no moneys from the department's fund may be required to be expended on behalf of the licensee or the licensee's clients, creditors, employees, shareholders, mem-

bers, investors, or any other party or entity. [2013 c 64 § 3; 2010 c 34 § 12.]

18.44.460 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensing during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1999 c 30 § 15; 1996 c 293 § 11. Formerly RCW 18.44.125.]

Additional notes found at www.leg.wa.gov

18.44.465 Termination of license—Effect upon pre-existing escrows—Notice to principals. The revocation, suspension, surrender, or expiration of an escrow agent's license shall not impair or affect preexisting escrows accepted by the agent prior to such revocation, suspension, surrender, or expiration: PROVIDED, That the escrow agent shall within five workdays provide written notice to all principals of such preexisting escrows of the agent's loss of license. The notice shall include as a minimum the reason for the loss of license, the estimated date for completing the escrow, and the condition of the agent's bond and whether it is in effect or whether notice of cancellation has been given. The notice shall afford the principals the right to withdraw the escrow without monetary loss. [1999 c 30 § 16; 1977 ex.s. c 156 § 9; 1965 c 153 § 13. Formerly RCW 18.44.130.]

18.44.470 Receivership. Upon application by the director or any other interested party and upon a showing that the interest of the creditors so requires, the superior court may appoint a receiver to take over, operate, or liquidate any escrow office in this state. [1971 ex.s. c 245 § 6. Formerly RCW 18.44.190.]

18.44.480 Remedies—Affecting corporate franchise. Upon petition by the attorney general, the court may, in its discretion, order the dissolution, or suspension or forfeiture of franchise, of any corporation for repeated or flagrant violation of this chapter or the terms of any order of injunction hereunder. [1965 c 153 § 18. Formerly RCW 18.44.170.]

18.44.490 Authority to prosecute—Grants of injunctive relief, temporary restraining orders. (1) The director, through the attorney general, may prosecute an action in any court of competent jurisdiction to enforce any order made by him or her pursuant to this chapter and shall not be required to post a bond in any such court proceedings.

(2) If the director has cause to believe that any person has violated any penal provision of this chapter he or she may refer the violation to the attorney general or the prosecuting attorney of the county in which the offense was committed.

(3) Whenever the director has cause to believe that any person, required to be licensed by this chapter, is conducting business as an escrow agent without a valid license, or that any licensed escrow agent, directly or through an agent or employee, is engaged in any false, unfair and deceptive, or misleading advertising or promotional, activity or business practices, or is conducting business in a manner deemed unsafe or injurious to the public, or has violated, is violating, or is about to violate any of the provisions of this chapter, or a rule or order under this chapter, the director, through the attorney general, may bring an action in any court of competent jurisdiction to enjoin the person from continuing the violation or doing any action in furtherance thereof. Upon proper showing, injunctive relief or temporary restraining orders shall be granted by the court and a receiver or conservator may be appointed.

(4) The attorney general and the several prosecuting attorneys throughout the state may prosecute proceedings brought pursuant to this chapter upon notification of the director. [1999 c 30 § 18; 1977 ex.s. c 156 § 10; 1965 c 153 § 17. Formerly RCW 18.44.160.]

ESCROW ADVISORY COMMITTEE

18.44.500 Committee to advise director—Members—Compensation and travel expenses. There is established a committee of the state of Washington, to consist of the director of financial institutions or his or her designee as chair, and five other members who shall act as advisors to the director as to the needs of the escrow profession, including but not limited to the design and conduct of tests to be administered to applicants for escrow licenses, the schedule of license fees to be applied to the escrow licensees, educational programs, audits and investigations of the escrow profession designed to protect the consumer, and such other matters determined appropriate. The director is hereby empowered to and shall appoint the other members, each of whom shall have been a resident of this state for at least five years and shall have at least five years experience in the practice of escrow as an escrow agent or as a person in responsible charge of escrow transactions.

Every member of the committee shall receive a certificate of appointment from the director and before beginning the member's term of office shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of each member, the director shall appoint a successor to serve for a term of five years or until the member's successor has been appointed and qualified.

The director may remove any member of the committee for cause. Vacancies in the committee for any reason shall be filled by appointment for the unexpired term.

Members shall be compensated in accordance with RCW 43.03.240, and shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. [2011

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1st sp.s. c 21 § 50; 2011 c 336 § 484; 1995 c 238 § 3; 1985 c 340 § 3; 1984 c 287 § 36. Formerly RCW 18.44.208.]

Reviser's note: This section was amended by 2011 c 336 § 484 and by 2011 1st sp.s. c 21 § 50, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.44.510 Compensation and travel expenses of committee members. The committee members shall each be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided for state officials and employees in RCW 43.03.050 and 43.03.060, when called into session by the director or when otherwise engaged in the business of the committee. [2011 1st sp.s. c 21 § 49; 1984 c 287 § 37; 1977 ex.s. c 156 § 29. Formerly RCW 18.44.215.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

MISCELLANEOUS

18.44.901 Construction—1965 c 153. Nothing in this chapter shall be so construed as to authorize any escrow agent, or his or her employees or agents, to engage in the practice of law, and nothing in this chapter shall be so construed as to impose any additional liability on any depository authorized by this chapter and the receipt or acquittance of the persons so paid by such depository shall be a valid and sufficient release and discharge of such depository. [2011 c 336 § 485; 1965 c 153 § 20. Formerly RCW 18.44.900.]

18.44.902 Short title. This chapter shall be known and cited as the "Escrow Agent Registration Act". [1965 c 153 § 21. Formerly RCW 18.44.910.]

Chapter 18.46 RCW BIRTHING CENTERS

Sections

18.46.005	Purpose.
18.46.010	Definitions.
18.46.020	License required.
18.46.030	Application for license—Fee.
18.46.040	License—Issuance—Renewal—Limitations—Display.
18.46.050	Actions against license.
18.46.055	License suspension—Nonpayment or default on educational loan or scholarship.
18.46.060	Rules.
18.46.070	Rules—Time for compliance.
18.46.080	Inspections—Approval of new facilities.
18.46.090	Information confidential.
18.46.110	Fire protection—Duties of chief of the Washington state patrol.
18.46.120	Operating without license—Penalty.
18.46.130	Operating without license—Injunction.
18.46.140	Application of chapter to birthing centers operated by certain religious organizations.
18.46.150	Down syndrome—Parent information.

Abortion: Chapter 9.02 RCW.

Crimes relating to pregnancy and childbirth: RCW 9A.32.060.

Filing certificate of birth: RCW 70.58.080.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

18.46.005 Purpose. The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of birthing centers, which, in the light of advancing knowledge, will promote safe and adequate care and treatment of the individuals therein. [2000 c 93 § 29; 1951 c 168 § 1.]

18.46.010 Definitions. (1) "Birthing center" or "child-birth center" means any health facility, not part of a hospital or in a hospital, that provides facilities and staff to support a birth service to low-risk maternity clients: PROVIDED, HOWEVER, That this chapter shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association, or its successor.

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

(3) "Low-risk" means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

(4) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof. [2000 c 93 § 30; 1991 c 3 § 100; 1985 c 213 § 8; 1979 c 141 § 32; 1951 c 168 § 2. Prior: 1943 c 214 § 1; Rem. Supp. 1943 § 6130-47.]

Additional notes found at www.leg.wa.gov

18.46.020 License required. After July 1, 1951, no person shall operate a birthing center in this state without a license under this chapter. [2000 c 93 § 31; 1951 c 168 § 3. Prior: 1943 c 214 § 2; Rem. Supp. 1943 § 6130-48.]

18.46.030 Application for license—Fee. An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with rules and regulations as are lawfully prescribed hereunder. Each application for license or renewal of license shall be accompanied by a license fee as established by the department under RCW 43.20B.110: PROVIDED, That no fee shall be required of charitable or nonprofit or government-operated institutions. [1987 c 75 § 4; 1982 c 201 § 5; 1951 c 168 § 4.]

Additional notes found at www.leg.wa.gov

18.46.040 License—Issuance—Renewal—Limitations—Display. Upon receipt of an application for a license and the license fee, the licensing agency shall issue a license if the applicant and the birthing center meet the requirements established under this chapter. A license, unless suspended or revoked, shall be renewable annually. Applications for renewal shall be on forms provided by the department and shall be filed in the department not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a license fee as established by the department under RCW 43.20B.110. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval

of the department. Licenses shall be posted in a conspicuous place on the licensed premises. [2000 c 93 § 32; 1987 c 75 § 5; 1982 c 201 § 6; 1951 c 168 § 5. Prior: 1943 c 214 § 3; Rem. Supp. 1943 § 6130-49.]

Additional notes found at www.leg.wa.gov

18.46.050 Actions against license. (1) The department may deny, suspend, or revoke a license in any case in which it finds that there has been failure or refusal to comply with the requirements established under this chapter or the rules adopted under it.

(2) The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding but shall not apply to actions taken under subsection (2) of this section. [1997 c 58 § 823; 1991 c 3 § 101; 1989 c 175 § 63; 1985 c 213 § 9; 1951 c 168 § 6.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.46.055 License suspension—Nonpayment or default on educational loan or scholarship. The department shall suspend the license of any person who has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the department a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the department may impose. [1996 c 293 § 12.]

Additional notes found at www.leg.wa.gov

18.46.060 Rules. The department, after consultation with representatives of birthing center operators, state medical association, Washington Osteopathic Association, state nurses association, state hospital association, state midwives

association, and any other representatives as the department may deem necessary, shall adopt, amend, and promulgate such rules and regulations with respect to all birthing centers in the promotion of safe and adequate medical and nursing care in the birthing center and the sanitary, hygienic, and safe condition of the birthing center in the interest of the health, safety, and welfare of the people. [2000 c 93 § 33; 1985 c 213 § 10; 1951 c 168 § 7.]

Additional notes found at www.leg.wa.gov

18.46.070 Rules—Time for compliance. Any birthing center which is in operation at the time of promulgation of any applicable rules or regulations under this chapter shall be given a reasonable time, under the particular circumstances, not to exceed three months from the date of such promulgation, to comply with the rules and regulations established under this chapter. [2000 c 93 § 34; 1951 c 168 § 8.]

18.46.080 Inspections—Approval of new facilities. The department shall make or cause to be made an inspection and investigation of all birthing centers, and every inspection may include an inspection of every part of the premises. The department may make an examination of all records, methods of administration, the general and special dietary and the stores and methods of supply. The department may prescribe by regulation that any licensee or applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall before commencing such alterations, addition, or new construction submit plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with regulations and standards herein authorized. Necessary conferences and consultations may be provided. [2000 c 93 § 35; 1951 c 168 § 9. Prior: 1943 c 214 § 4; Rem. Supp. 1943 § 6130-50.]

18.46.090 Information confidential. All information received by the department through filed reports, inspection, or as otherwise authorized under this chapter shall not be disclosed publicly in any manner as to identify individuals or birthing centers except in a proceeding involving the question of licensure. [2000 c 93 § 36; 1951 c 168 § 10.]

18.46.110 Fire protection—Duties of chief of the Washington state patrol. Fire protection with respect to all birthing centers to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt by reference, such recognized standards as may be applicable to nursing homes, places of refuge, and birthing centers for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the birthing center to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the

chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the department as to the manner in which the premises may qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department, applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the birthing center to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department, a written report approving same with respect to fire protection before a license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made such inspection of such birthing centers as he or she deems necessary.

In cities which have in force a comprehensive building code, the regulation of which is equal to the minimum standards of the code for birthing centers adopted by the chief of the Washington state patrol, through the director of fire protection, the building inspector and the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection and shall approve the premises before a license can be issued.

In cities where such building codes are in force, the chief of the Washington state patrol, through the director of fire protection, may, upon request by the chief fire official, or the local governing body, or of a taxpayer of such city, assist in the enforcement of any such code pertaining to birthing centers. [2000 c 93 § 37; 1995 c 369 § 5; 1986 c 266 § 82; 1951 c 168 § 12.]

State fire protection: Chapter 43.44 RCW.

Additional notes found at www.leg.wa.gov

18.46.120 Operating without license—Penalty. Any person operating or maintaining any birthing center without a license under this chapter shall be guilty of a misdemeanor. Each day of a continuing violation after conviction shall be considered a separate offense. [2000 c 93 § 38; 1951 c 168 § 13.]

18.46.130 Operating without license—Injunction. Notwithstanding the existence or use of any other remedy, the department may in the manner provided by law, upon the advice of the attorney general who shall represent the department in all proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the operation or maintenance of a birthing center not licensed under this chapter. [2000 c 93 § 39; 1951 c 168 § 14.]

Injunctions: Chapter 7.40 RCW.

18.46.140 Application of chapter to birthing centers operated by certain religious organizations. Nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial and nursing care of patients in any birthing center as defined in this chapter, conducted for or by members of a recognized religious sect, denomina-

tion, or organization which in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion, nor shall the existence of any of the above conditions militate against the licensing of such facility. [2000 c 93 § 40; 1951 c 168 § 15.]

18.46.150 Down syndrome—Parent information. A birthing center that provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the birthing center provides the parent with the Down syndrome diagnosis. [2016 c 70 § 10.]

Chapter 18.50 RCW MIDWIFERY

Sections

18.50.005	Definitions.
18.50.010	Practicing midwifery defined—Gratuitous services—Duty to consult with physician.
18.50.020	License required.
18.50.030	Exemptions—Practice of religion—Treatment by prayer.
18.50.032	Exemptions—Registered nurses and nurse midwives.
18.50.034	Exemptions—Persons enrolled in midwifery programs.
18.50.040	Candidates for examination—Application—Eligibility—Student midwife permits.
18.50.045	Midwifery education programs—Accreditation.
18.50.050	Compliance with secretary's determination.
18.50.060	Examinations—Times and places—Subjects—Issuance of license.
18.50.065	Credentialing by endorsement.
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18.50.105	Inform patient of qualifications of midwife—Form.
18.50.108	Written plan for consultation, emergency transfer, and transport.
18.50.115	Administration of drugs and medications—Rules.
18.50.126	Application of uniform disciplinary act.
18.50.130	"Certificate" and "license" synonymous.
18.50.135	Rules.
18.50.140	Midwifery advisory committee—Generally.
18.50.150	Midwifery advisory committee—Advice and recommendations.
18.50.160	Delegation to nurse.
18.50.170	Down syndrome—Parent information.
18.50.900	Repeal and saving.

Abortion: Chapter 9.02 RCW.

Actions for injuries resulting from health care: Chapter 7.70 RCW.

Crimes relating to pregnancy and childbirth: RCW 9A.32.060.

Filing certificate of birth: RCW 70.58.080.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.50.005 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Department" means the department of health.
- (2) "Secretary" means the secretary of health.
- (3) "Midwife" means a midwife licensed under this chapter.
- (4) "Physician" means a physician licensed under chapter 18.57 or 18.71 RCW. [1991 c 3 § 102; 1987 c 467 § 1; 1981 c 53 § 2.]

Additional notes found at www.leg.wa.gov

18.50.010 Practicing midwifery defined—Gratuitous services—Duty to consult with physician. Any person shall be regarded as practicing midwifery within the meaning of this chapter who shall render medical aid for a fee or compensation to a woman during prenatal, intrapartum, and postpartum stages or to her newborn up to two weeks of age or who shall advertise as a midwife by signs, printed cards, or otherwise. Nothing shall be construed in this chapter to prohibit gratuitous services. It shall be the duty of a midwife to consult with a physician whenever there are significant deviations from normal in either the mother or the newborn. [2014 c 187 § 1; 1991 c 3 § 103; 1987 c 467 § 2; 1981 c 53 § 5; 1917 c 160 § 8; RRS § 10181. Formerly RCW 18.50.010, 18.50.030, part, and 18.50.090.]

Additional notes found at www.leg.wa.gov

18.50.020 License required. Any person who shall practice midwifery in this state after July 1, 1917, shall first obtain from the secretary a license so to do, and the said secretary is authorized to grant such license after examination of the applicant as hereinafter provided. [1991 c 3 § 104; 1917 c 160 § 1; RRS § 10174.]

18.50.030 Exemptions—Practice of religion—Treatment by prayer. This chapter shall not be construed to interfere in any way with the practice of religion, nor be held to apply to or regulate any kind of treatment by prayer. [1917 c 160 § 12; RRS § 10185. FORMER PART OF SECTION: 1917 c 160 § 8, part; RRS § 10181, part, now codified in RCW 18.50.010.]

Gratuitous services exempted: RCW 18.50.010.

18.50.032 Exemptions—Registered nurses and nurse midwives. Registered nurses and nurse midwives certified by the nursing care quality assurance commission under chapter 18.79 RCW shall be exempt from the requirements and provisions of this chapter. [1994 sp.s. c 9 § 704; 1981 c 53 § 10.]

Additional notes found at www.leg.wa.gov

18.50.034 Exemptions—Persons enrolled in midwifery programs. Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of midwifery by a person who is enrolled in a program of midwifery approved and accredited by the secretary: PROVIDED, That the performance of such services is only pursuant to a regular course of instruction or assignment from the student's instructor, and that such services are performed only under the supervision and control of a person licensed in the state of Washington to perform services encompassed under this chapter. [1991 c 3 § 105; 1981 c 53 § 11.]

Additional notes found at www.leg.wa.gov

18.50.040 Candidates for examination—Application—Eligibility—Student midwife permits. (1) Any person seeking to be examined shall present to the secretary, at least forty-five days before the commencement of the examination, a written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require and proof the candidate has received a high school degree or its equivalent; that the can-

didate is twenty-one years of age or older; that the candidate has received a certificate or diploma from a midwifery program accredited by the secretary and licensed under chapter 28C.10 RCW, when applicable, or a certificate or diploma in a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant was graduated. Foreign candidates must present with the application a translation of the foreign certificate or diploma made by and under the seal of the consulate of the country in which the certificate or diploma was issued.

(2) The candidate shall meet the following conditions:

(a) Obtaining a minimum period of midwifery training for at least three years including the study of the basic nursing skills that the department shall prescribe by rule. However, if the applicant is a registered nurse or licensed practical nurse under chapter 18.79 RCW, or has had previous nursing education or practical midwifery experience, the required period of training may be reduced depending upon the extent of the candidate's qualifications as determined under rules adopted by the department. In no case shall the training be reduced to a period of less than two years.

(b) Meeting minimum educational requirements which shall include studying obstetrics; neonatal pediatrics; basic sciences; female reproductive anatomy and physiology; behavioral sciences; childbirth education; community care; obstetrical pharmacology; epidemiology; gynecology; family planning; genetics; embryology; neonatology; the medical and legal aspects of midwifery; nutrition during pregnancy and lactation; breastfeeding; nursing skills, including but not limited to injections, administering intravenous fluids, catheterization, and aseptic technique; and such other requirements prescribed by rule.

(c) For a student midwife during training, undertaking the care of not less than fifty women in each of the prenatal, intrapartum, and early postpartum periods, but the same women need not be seen through all three periods. A student midwife may be issued a permit upon the satisfactory completion of the requirements in (a), (b), and (c) of this subsection and the satisfactory completion of the licensure examination required by RCW 18.50.060. The permit permits the student midwife to practice under the supervision of a midwife licensed under this chapter, a physician or a certified nurse-midwife licensed under the authority of chapter 18.79 RCW. The permit shall expire within one year of issuance and may be extended as provided by rule.

(d) Observing an additional fifty women in the intrapartum period before the candidate qualifies for a license.

(3) Notwithstanding subsections (1) and (2) of this section, the department shall adopt rules to provide credit toward the educational requirements for licensure before July 1, 1988, of nonlicensed midwives, including rules to provide:

(a) Credit toward licensure for documented deliveries;

(b) The substitution of relevant experience for classroom time; and

(c) That experienced lay midwives may sit for the licensing examination without completing the required coursework.

The training required under this section shall include training in either hospitals or alternative birth settings or both

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with particular emphasis on learning the ability to differentiate between low-risk and high-risk pregnancies. [1994 sp.s. c 9 § 705; 1991 c 3 § 106; 1987 c 467 § 3; 1986 c 299 § 24; 1981 c 53 § 6; 1917 c 160 § 2; RRS § 10175.]

Additional notes found at www.leg.wa.gov

18.50.045 Midwifery education programs—Accreditation. The secretary shall promulgate standards by rule under chapter 34.05 RCW for accrediting midwifery educational programs. The standards shall cover the provision of adequate clinical and didactic instruction in all subjects and noncurriculum matters under this section including, but not limited to, staffing and teacher qualifications. In developing the standards, the secretary shall be advised by and receive the recommendations of the midwifery advisory committee. [1991 c 3 § 107; 1981 c 53 § 7.]

18.50.050 Compliance with secretary's determination. Applicants shall comply with administrative procedures, administrative requirements, and fees determined by the secretary as provided by RCW 43.70.250 and 43.70.280. [1996 c 191 § 24; 1991 c 3 § 108; 1985 c 7 § 48; 1975 1st ex.s. c 30 § 51; 1917 c 160 § 3; RRS § 10176.]

Limitation on increases in midwifery fees: RCW 43.24.086.

18.50.060 Examinations—Times and places—Subjects—Issuance of license. (1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in midwifery at least twice a year at such times and places as the secretary may select. The examinations shall be written and shall be in the English language.

(2) The secretary, with the assistance of the midwifery advisory committee, shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by a licensed midwife. The examination shall be sufficient to test the scientific and practical fitness of candidates to practice midwifery. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is satisfactorily completed, the secretary shall issue to such candidate a license entitling the candidate to practice midwifery in the state of Washington. [1991 c 3 § 109; 1987 c 467 § 4; 1981 c 53 § 8; 1979 c 158 § 43; 1917 c 160 § 4; RRS § 10177.]

Additional notes found at www.leg.wa.gov

18.50.065 Credentialing by endorsement. (1) An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

(2) The secretary shall write rules to bridge the gap between requirements of national certification of certified professional midwives and state requirements for licensure for licensed midwives. [2014 c 187 § 2; 1991 c 332 § 32.]

Additional notes found at www.leg.wa.gov

18.50.102 License renewal. (1) A licensed midwife must renew his or her license according to the following requirements:

- (a) Completion of a minimum of thirty hours of continuing education, approved by the secretary, every three years;
- (b) Proof of participation in a Washington state coordinated quality improvement program as detailed in rule;
- (c) Proof of participation in data submission on perinatal outcomes to a national or state research organization, as detailed in rule; and
- (d) Fees determined by the secretary as provided in RCW 43.70.250 and 43.70.280.

(2) The secretary shall write rules regarding the renewal requirements and the department's process for verification of the third-party data submission. [2014 c 187 § 3; 1996 c 191 § 25; 1991 c 3 § 110; 1985 c 7 § 49; 1981 c 53 § 13.]

Limitation on increases in midwifery fees: RCW 43.24.086.

Additional notes found at www.leg.wa.gov

18.50.105 Inform patient of qualifications of midwife—Form. The secretary, with the advice of the midwifery advisory committee, shall develop a form to be used by a midwife to inform the patient of the qualifications of a licensed midwife. [1991 c 3 § 111; 1981 c 53 § 12.]

18.50.108 Written plan for consultation, emergency transfer, and transport. Every licensed midwife shall develop a written plan for consultation with other health care providers, emergency transfer, transport of an infant to a newborn nursery or neonatal intensive care nursery, and transport of a woman to an appropriate obstetrical department or patient care area. The written plan shall be submitted annually together with the license renewal fee to the department. [1981 c 53 § 14.]

Additional notes found at www.leg.wa.gov

18.50.115 Administration of drugs and medications—Rules. A midwife licensed under this chapter may obtain and administer prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho immune globulin (human), and local anesthetic and may administer such other drugs or medications as prescribed by a physician. A pharmacist who dispenses such drugs to a licensed midwife shall not be liable for any adverse reactions caused by any method of use by the midwife.

The secretary, after consultation with representatives of the midwife advisory committee, the pharmacy quality assurance commission, and the medical quality assurance commission, may adopt rules that authorize licensed midwives to purchase and use legend drugs and devices in addition to the drugs authorized in this chapter. [2013 c 19 § 1; 1994 sp.s. c 9 § 707; 1991 c 3 § 112; 1987 c 467 § 6.]

Additional notes found at www.leg.wa.gov

18.50.126 Application of uniform disciplinary act. 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. [1987 c 150 § 31; 1986 c 259 § 75.]

Additional notes found at www.leg.wa.gov

18.50.130 "Certificate" and "license" synonymous. The words "certificate" and "license" shall be known as interchangeable terms in this chapter. [1917 c 160 § 11; RRS § 10184.]

18.50.135 Rules. The secretary shall promulgate rules under chapter 34.05 RCW as are necessary to carry out the purposes of this chapter. [1991 c 3 § 113; 1981 c 53 § 15.]

Additional notes found at www.leg.wa.gov

18.50.140 Midwifery advisory committee—Generally. The midwifery advisory committee is created.

The committee shall be composed of one physician who is a practicing obstetrician; one practicing physician; one certified nurse midwife licensed under chapter 18.79 RCW; three midwives licensed under this chapter; and one public member, who shall have no financial interest in the rendering of health services. The committee may seek other consultants as appropriate, including persons trained in childbirth education and perinatology or neonatology.

The members are appointed by the secretary and serve at the pleasure of the secretary but may not serve more than five years consecutively. The terms of office shall be staggered. Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1994 sp.s. c 9 § 706; 1991 c 3 § 114; 1987 c 467 § 5; 1981 c 53 § 3.]

Additional notes found at www.leg.wa.gov

18.50.150 Midwifery advisory committee—Advice and recommendations. The midwifery advisory committee shall advise and make recommendations to the secretary on issues including, but not limited to, continuing education, mandatory reexamination, and peer review. [1998 c 245 § 6; 1991 c 3 § 115; 1981 c 53 § 4.]

18.50.160 Delegation to nurse. A licensed midwife may delegate to a registered nurse or a licensed practical nurse selected acts, tasks, or procedures that constitute the practice of midwifery but do not exceed the education of the nurse. [2014 c 187 § 4.]

18.50.170 Down syndrome—Parent information. A midwife who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the midwife provides the parent with the Down syndrome diagnosis. [2016 c 70 § 2.]

18.50.900 Repeal and saving. All acts or parts of acts inconsistent with the provisions of this chapter may be and the same are hereby repealed: PROVIDED, This chapter shall not repeal the provisions of the vital statistics laws of the state, but shall be deemed as additional and cumulative provisions. [1917 c 160 § 10.]

Chapter 18.51 RCW NURSING HOMES

Sections

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Labor regulations, collective bargaining—Health care activities: Chapter 49.66 RCW.

Resident care, operating standards: Chapter 74.42 RCW.

(2016 Ed.)

18.51.005 Purpose. The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of nursing homes, which, in the light of advancing knowledge, will promote safe and adequate care and treatment of the individuals therein. An important secondary purpose is the improvement of nursing home practices by educational methods so that such practices eventually exceed the minimum requirements of the basic law and its original standards. [1951 c 117 § 1.]

18.51.007 Legislative intent. It is the intent of the legislature in enacting chapter 99, Laws of 1975 1st ex. sess. to establish (1) a system for the imposition of prompt and effective sanctions against nursing homes in violation of the laws and regulations of this state relating to patient care; (2) an inspection and reporting system to insure that nursing homes are in compliance with state statutes and regulations pertaining to patient care; and (3) a mechanism to insure that licenses are issued to or retained by only those nursing homes that meet state standards for resident health and safety. [1981 1st ex.s. c 2 § 14; 1975 1st ex.s. c 99 § 3.]

Additional notes found at www.leg.wa.gov

18.51.009 Resident rights. RCW 70.129.007, 70.129.105, and 70.129.150 through 70.129.170 apply to this chapter and persons regulated under this chapter. [1994 c 214 § 22.]

Additional notes found at www.leg.wa.gov

18.51.010 Definitions. (1) "Community-based care" means but is not limited to the following:

- (a) Home delivered nursing services;
- (b) Personal care;
- (c) Day care;
- (d) Nutritional services, both in-home and in a communal dining setting;
- (e) Habilitation care; and
- (f) Respite care.

(2) "Department" means the state department of social and health services.

(3) "Nursing home" means any home, place or institution which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include but not be limited to any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include care of mentally incompetent persons. It may also include community-based care. Nothing in this definition shall be construed to include general hospitals or other places which provide care and treatment for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both. Nothing in this definition shall be construed to include any *assisted living facility, guest home, hotel or related institution which is held forth to the public as providing, and which is operated to give only board, room and laundry to

persons not in need of medical or nursing treatment or supervision except in the case of temporary acute illness. The mere designation by the operator of any place or institution as a hospital, sanitarium, or any other similar name, which does not provide care for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both, shall not exclude such place or institution from the provisions of this chapter: PROVIDED, That any nursing home providing psychiatric treatment shall, with respect to patients receiving such treatment, comply with the provisions of RCW 71.12.560 and 71.12.570.

(4) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(5) "Secretary" means the secretary of the department of social and health services. [2012 c 10 § 35; 1983 c 236 § 1; 1981 1st ex.s. c 2 § 15; 1973 1st ex.s. c 108 § 1; 1953 c 160 § 1; 1951 c 117 § 2.]

Reviser's note: *(1) The term "boarding home" was changed to "assisted living facility" throughout the code by 2012 c 10. However, in this section, "assisted living facility" appears to be the incorrect term.

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Application—2012 c 10: See note following RCW 18.20.010.

Additional notes found at www.leg.wa.gov

18.51.030 License required. After July 1, 1951 no person shall operate or maintain a nursing home in this state without a license under this chapter. [1951 c 117 § 4.]

18.51.040 Application for license. An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with the rules and regulations as are lawfully prescribed hereunder. [1953 c 160 § 3; 1951 c 117 § 5.]

18.51.050 License—Issuance, renewal—Fee—Display. (1)(a) Upon receipt of an application for a license, the department may issue a license if the applicant and the nursing home's facilities meet the requirements established under this chapter, except that the department shall issue a temporary license to a court-appointed receiver for a period not to exceed six months from the date of appointment.

(b)(i) Except as provided in (b)(ii) of this subsection, prior to the issuance or renewal of the license, the licensee shall pay a license fee. Beginning July 1, 2011, and thereafter, the per bed license fee must be established in the omnibus appropriations act and any amendment or additions made to that act. The license fees established in the omnibus appropriations act and any amendment or additions made to that act may not exceed the department's annual licensing and oversight activity costs and shall include the department's cost of paying providers for the amount of the license fee attributed to medicaid clients.

(ii) No fee shall be required of government operated institutions or court-appointed receivers.

(c) A license issued under this chapter may not exceed twelve months in duration and expires on a date set by the department.

(d) In the event of a change of ownership, the previously established license expiration date shall not change.

(2) All applications and fees for renewal of the license shall be submitted to the department not later than thirty days prior to the date of expiration of the license. All applications and fees, if any, for change of ownership shall be submitted to the department not later than sixty days before the date of the proposed change of ownership. A nursing home license shall be issued only to the person who applied for the license. The license is valid only for the operation of the facility at the location specified in the license application. Licenses are not transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises. [2011 1st sp.s. c 3 § 401; 1991 sp.s. c 8 § 1; 1989 c 372 § 1; 1985 c 284 § 4; 1981 2nd ex.s. c 11 § 2; 1981 1st ex.s. c 2 § 17; 1975 1st ex.s. c 99 § 1; 1971 ex.s. c 247 § 2; 1953 c 160 § 4; 1951 c 117 § 6.]

Effective date—2011 1st sp.s. c 3 §§ 401-403: "Sections 401 through 403 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2011." [2011 1st sp.s. c 3 § 603.]

Finding—Intent—2011 1st sp.s. c 3: See note following RCW 70.128.005.

Additional notes found at www.leg.wa.gov

18.51.054 Denial of license. The department may deny a license to any applicant if the department finds that the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant:

(1) Operated a nursing home without a license or under a revoked or suspended license; or

(2) Knowingly or with reason to know made a false statement of a material fact (a) in an application for license or any data attached thereto, or (b) in any matter under investigation by the department; or

(3) Refused to allow representatives or agents of the department to inspect (a) all books, records, and files required to be maintained or (b) any portion of the premises of the nursing home; or

(4) Willfully prevented, interfered with, or attempted to impede in any way (a) the work of any authorized representative of the department or (b) the lawful enforcement of any provision of this chapter or chapter 74.42 RCW; or

(5) Has a history of significant noncompliance with federal or state regulations in providing nursing home care. In deciding whether to deny a license under this section, the factors the department considers shall include the gravity and frequency of the noncompliance. [1989 c 372 § 7; 1985 c 284 § 1.]

18.51.060 Penalties—Grounds. (1) In any case in which the department finds that a licensee, or any partner, officer, director, owner of five percent or more of the assets of the nursing home, or managing employee failed or refused to comply with the requirements of this chapter or of chapter 74.42 RCW, or the standards, rules, and regulations established under them or, in the case of a medicaid contractor, failed or refused to comply with the medicaid requirements of Title XIX of the social security act, as amended, and regulations promulgated thereunder, the department may take any or all of the following actions:

(a) Suspend, revoke, or refuse to renew a license;

(b) Order stop placement;

(c) Assess monetary penalties of a civil nature;

(d) Deny payment to a nursing home for any medicaid resident admitted after notice to deny payment. Residents who are medicaid recipients shall not be responsible for payment when the department takes action under this subsection;

(e) Appoint temporary management as provided in subsection (7) of this section.

(2) The department may suspend, revoke, or refuse to renew a license, assess monetary penalties of a civil nature, or both, in any case in which it finds that the licensee, or any partner, officer, director, owner of five percent or more of the assets of the nursing home, or managing employee:

(a) Operated a nursing home without a license or under a revoked or suspended license; or

(b) Knowingly or with reason to know made a false statement of a material fact in his or her application for license or any data attached thereto, or in any matter under investigation by the department; or

(c) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the nursing home; or

(d) Willfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter or of chapter 74.42 RCW; or

(e) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or of chapter 74.42 RCW or the standards, rules, and regulations adopted under them; or

(f) Failed to report patient abuse or neglect in violation of chapter 70.124 RCW; or

(g) Fails to pay any civil monetary penalty assessed by the department pursuant to this chapter within ten days after such assessment becomes final.

(3) The department shall deny payment to a nursing home having a medicaid contract with respect to any medicaid-eligible individual admitted to the nursing home when:

(a) The department finds the nursing home not in compliance with the requirements of Title XIX of the social security act, as amended, and regulations promulgated thereunder, and the facility has not complied with such requirements within three months; in such case, the department shall deny payment until correction has been achieved; or

(b) The department finds on three consecutive standard surveys that the nursing home provided substandard quality of care; in such case, the department shall deny payment for new admissions until the facility has demonstrated to the satisfaction of the department that it is in compliance with medicaid requirements and that it will remain in compliance with such requirements.

(4)(a) Civil penalties collected under this section or under chapter 74.42 RCW shall be deposited into a special fund administered by the department to be applied to the protection of the health or property of residents of nursing homes found to be deficient, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(b) Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day a nursing home is or was out of compliance. Civil monetary penalties shall not exceed three thousand dollars per violation. Each day upon which the same or a substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(c) Any civil penalty assessed under this section or chapter 74.46 RCW shall be a nonreimbursable item under chapter 74.46 RCW.

(5)(a) The department shall order stop placement on a nursing home, effective upon oral or written notice, when the department determines:

(i) The nursing home no longer substantially meets the requirements of chapter 18.51 or 74.42 RCW, or in the case of medicaid contractors, the requirements of Title XIX of the social security act, as amended, and any regulations promulgated under such statutes; and

(ii) The deficiency or deficiencies in the nursing home:

(A) Jeopardize the health and safety of the residents, or

(B) Seriously limit the nursing home's capacity to provide adequate care.

(b) When the department has ordered a stop placement, the department may approve a readmission to the nursing home from a hospital when the department determines the readmission would be in the best interest of the individual seeking readmission.

(c) The department shall terminate the stop placement when:

(i) The provider states in writing that the deficiencies necessitating the stop placement action have been corrected; and

(ii) The department staff confirms in a timely fashion not to exceed fifteen working days that:

(A) The deficiencies necessitating stop placement action have been corrected, and

(B) The provider exhibits the capacity to maintain adequate care and service.

(d) A nursing home provider shall have the right to an informal review to present written evidence to refute the deficiencies cited as the basis for the stop placement. A request for an informal review must be made in writing within ten days of the effective date of the stop placement.

(e) A stop placement shall not be delayed or suspended because the nursing home requests a hearing pursuant to chapter 34.05 RCW or an informal review. The stop placement shall remain in effect until:

(i) The department terminates the stop placement; or

(ii) The stop placement is terminated by a final agency order, after a hearing, pursuant to chapter 34.05 RCW.

(6) If the department determines that an emergency exists as a result of a nursing home's failure or refusal to comply with requirements of this chapter or, in the case of a medicaid contractor, its failure or refusal to comply with medicaid requirements of Title XIX of the social security act, as amended, and rules adopted thereunder, the department may suspend the nursing home's license and order the immediate closure of the nursing home, the immediate transfer of residents, or both.

(7) If the department determines that the health or safety of residents is immediately jeopardized as a result of a nurs-

ing home's failure or refusal to comply with requirements of this chapter or, in the case of a medicaid contractor, its failure or refusal to comply with medicaid requirements of Title XIX of the social security act, as amended, and rules adopted thereunder, the department may appoint temporary management to:

- (a) Oversee the operation of the facility; and
- (b) Ensure the health and safety of the facilities residents while:
 - (i) Orderly closure of the facility occurs; or
 - (ii) The deficiencies necessitating temporary management are corrected.

(8) The department shall by rule specify criteria as to when and how the sanctions specified in this section shall be applied. Such criteria shall provide for the imposition of incrementally more severe penalties for deficiencies that are repeated, uncorrected, pervasive, or present a threat to the health, safety, or welfare of the residents. [2011 c 336 § 486; 1989 c 372 § 8; 1987 c 476 § 23; 1981 1st ex.s. c 2 § 18; 1979 ex.s. c 228 § 10; 1975 1st ex.s. c 99 § 2; 1953 c 160 § 5; 1951 c 117 § 7.]

Additional notes found at www.leg.wa.gov

18.51.062 Temporary managers—Department shall indemnify, defend, and hold harmless. The department shall indemnify, defend, and hold harmless any temporary manager appointed and acting under RCW 18.51.060(7) against claims made against the temporary manager for any actions by the temporary manager or its agents that do not amount to intentional torts or criminal behavior. [2005 c 375 § 1.]

18.51.065 Penalties—Hearing (as amended by 1989 c 175). ((All orders of the department denying, suspending, or revoking the license or assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested. All hearings hereunder and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter 34.04 RCW.)) RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding. RCW 43.20A.215 governs notice of a civil fine and provides the right to an adjudicative proceeding. [1989 c 175 § 64; 1981 1st ex.s. c 2 § 19; 1975 1st ex.s. c 99 § 16.]

Additional notes found at www.leg.wa.gov

18.51.065 Penalties—Hearing (as amended by 1989 c 372). (1) All orders of the department denying, suspending, or revoking the license or assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested. All orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or license suspension, shall be effective immediately upon notice. Orders of the department imposing denial of payment shall become final twenty days after the same has been served, unless a hearing is requested, except that such orders shall be effective immediately upon notice and pending any hearing when the department determines the deficiencies jeopardize the health and safety of the residents or seriously limit the nursing home's capacity to provide adequate care. All hearings hereunder and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter ((34.04)) 34.05 RCW, except that all orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or license suspension shall be effective pending any hearing, and except that chapter 34.05 RCW shall have no application to receivership, which is instituted by direct petition to superior court as provided for in RCW 18.51.410 through 18.51.520. [1989 c 372 § 9; 1981 1st ex.s. c 2 § 19; 1975 1st ex.s. c 99 § 16.]

Reviser's note: RCW 18.51.065 was amended twice during the 1989 legislative session, each without reference to the other. For rule of construc-

tion concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Additional notes found at www.leg.wa.gov

18.51.067 License suspension—Noncompliance with support order—Reissuance. The department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services, division of [child] support, as a person who is not in compliance with a child support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the division of child support stating that the person is in compliance with the order. [1997 c 58 § 824.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.51.070 Rules. The department, after consultation with the board of health, shall adopt, amend, and promulgate such rules, regulations, and standards with respect to all nursing homes to be licensed hereunder as may be designed to further the accomplishment of the purposes of this chapter in promoting safe and adequate medical and nursing care of individuals in nursing homes and the sanitary, hygienic, and safe conditions of the nursing home in the interest of public health, safety, and welfare. [2011 c 151 § 3; 1979 ex.s. c 211 § 64; 1951 c 117 § 8.]

Additional notes found at www.leg.wa.gov

18.51.091 Inspection of nursing homes and community-based services—Notice of violations—Approval of alterations or new facilities. The department shall make or cause to be made at least one inspection of each nursing home prior to license renewal and shall inspect community-based services as part of the licensing renewal survey. The inspection shall be made without providing advance notice of it. Every inspection may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary and the stores and methods of supply. Those nursing homes that provide community-based care shall establish and maintain separate and distinct accounting and other essential records for the purpose of appropriately allocating costs of the providing of such care: PROVIDED, That such costs shall not be considered allowable costs for reimbursement purposes under chapter 74.46 RCW. Following such inspection or inspections, written notice of any violation of this law or the rules and regulations promulgated hereunder, shall be given the applicant or licensee and the department. The notice shall describe the reasons for the facility's noncompliance. The department may prescribe by regulations that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing

ing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. [1987 c 476 § 24; 1983 c 236 § 2; 1981 2nd ex.s. c 11 § 3; 1979 ex.s. c 211 § 63.]

Nursing home standards: Chapter 74.42 RCW.

Additional notes found at www.leg.wa.gov

18.51.140 Fire protection—Duties of chief of the Washington state patrol. Standards for fire protection and the enforcement thereof, with respect to all nursing homes to be licensed hereunder, shall be the responsibility of the chief of the Washington state patrol, through the director of fire protection, who shall adopt such recognized standards as may be applicable to nursing homes for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the chief of the Washington state patrol, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make an inspection of the nursing home to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the chief of the Washington state patrol, through the director of fire protection, he or she shall promptly make a written report to the nursing home and the department as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department, applicant or licensee shall notify the chief of the Washington state patrol, through the director of fire protection, upon completion of any requirements made by him or her, and the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, shall make a reinspection of such premises. Whenever the nursing home to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, he or she shall submit to the department, a written report approving same with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall make or cause to be made inspections of such nursing homes at least every eighteen months.

In cities which have in force a comprehensive building code, the provisions of which are determined by the chief of the Washington state patrol, through the director of fire protection, to be equal to the minimum standards of the code for nursing homes adopted by the chief of the Washington state patrol, through the director of fire protection, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the chief of the Washington state patrol, through the director of fire protection, or his or her deputy and they shall jointly approve the premises before a full license can be issued. [1995 1st sp.s. c 18 § 43; 1995 c 369 § 6; 1986 c 266 § 83; 1953 c 160 § 9; 1951 c 117 § 15.]

State fire protection: Chapter 43.44 RCW.

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Additional notes found at www.leg.wa.gov

18.51.145 Building inspections—Authority of chief of the Washington state patrol. Inspections of nursing homes by local authorities shall be consistent with the requirements of chapter 19.27 RCW, the state building code. Findings of a serious nature shall be coordinated with the department and the chief of the Washington state patrol, through the director of fire protection, for determination of appropriate actions to ensure a safe environment for nursing home residents. The chief of the Washington state patrol, through the director of fire protection, shall have exclusive authority to determine appropriate corrective action under this section. [1995 c 369 § 7; 1986 c 266 § 84; 1983 1st ex.s. c 67 § 45; 1981 1st ex.s. c 2 § 16.]

Conflict with federal requirements and this section: RCW 74.46.840.

Additional notes found at www.leg.wa.gov

18.51.150 Operating without license—Penalty. Any person operating or maintaining any nursing home without a license under this chapter shall be guilty of a misdemeanor and each day of a continuing violation after conviction shall be considered a separate offense. [1951 c 117 § 16.]

18.51.160 Operating without license—Injunction. Notwithstanding the existence or use of any other remedy, the department, may, in the manner provided by law, upon the advice of the attorney general who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the operation or maintenance of a nursing home without a license under this chapter. [1951 c 117 § 17.]

Injunctions: Chapter 7.40 RCW.

18.51.170 Application of chapter to homes or institutions operated by certain religious organizations. Nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any nursing home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or for any nursing home or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. [1977 c 48 § 1; 1951 c 117 § 21.]

18.51.180 Outpatient services—Authorized—Defined. A nursing home may, pursuant to rules and regulations adopted by the department of social and health services, offer outpatient services to persons who are not otherwise patients at such nursing home. Any certified nursing home offering outpatient services may receive payments from the federal medicare program for such services as are permissible under that program.

Outpatient services may include any health or social care needs, except surgery, that could feasibly be offered on an outpatient basis. [1973 1st ex.s. c 71 § 1.]

18.51.185 Outpatient services—Cost studies—Vendor rates. The department of social and health services shall assist the nursing home industry in researching the costs of outpatient services allowed under RCW 18.51.180. Such cost studies shall be utilized by the department in the determination of reasonable vendor rates for nursing homes offering such services to insure an adequate return to the nursing homes and a cost savings to the state as compared to the cost of institutionalization. [1973 1st ex.s. c 71 § 2.]

18.51.190 Complaint of violation—Request for inspection—Notice—Confidentiality. Any person may request an inspection of any nursing home subject to licensing under this chapter in accordance with the provisions of this chapter by giving notice to the department of an alleged violation of applicable requirements of state law. The complainant shall be encouraged to submit a written, signed complaint following a verbal report. The substance of the complaint shall be provided to the licensee no earlier than at the commencement of the inspection. Neither the substance of the complaint provided the licensee nor any copy of the complaint or record published, released, or otherwise made available to the licensee shall disclose the name of any individual complainant or other person mentioned in the complaint, except the name or names of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter, unless such complainant specifically requests the release of such name or names. [1981 1st ex.s. c 2 § 20; 1975 1st ex.s. c 99 § 4.]

Additional notes found at www.leg.wa.gov

18.51.200 Preliminary review of complaint—On-site investigation. Upon receipt of a complaint, the department shall make a preliminary review of the complaint. Unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, or unless the department has sufficient information that corrective action has been taken, it shall make an on-site investigation within a reasonable time after the receipt of the complaint or otherwise ensure complaints are responded to. In either event, the complainant shall be promptly informed of the department's proposed course of action. If the complainant requests the opportunity to do so, the complainant or his or her representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his or her tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby. [2011 c 336 § 487; 1981 1st ex.s. c 2 § 21; 1975 1st ex.s. c 99 § 5.]

Additional notes found at www.leg.wa.gov

18.51.210 Authority to enter and inspect nursing home—Advance notice—Defense. (1) Any duly authorized officer, employee, or agent of the department may enter and inspect any nursing home, including, but not limited to, interviewing residents and reviewing records, at any time to enforce any provision of this chapter. Inspections conducted pursuant to complaints filed with the department shall be conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection con-

ducted pursuant to this chapter unless previously and specifically authorized by the secretary or required by federal law.

(2) Any public employee giving such advance notice in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(3) In any hearing held pursuant to this chapter, it shall be a defense to a violation relating to the standard of care to be afforded public patients to show that the department does not provide reasonable funds to meet the cost of reimbursement standard allegedly violated. [1981 1st ex.s. c 2 § 22; 1975 1st ex.s. c 99 § 6.]

Additional notes found at www.leg.wa.gov

18.51.220 Retaliation or discrimination against complainant prohibited, penalty—Presumption. (1) No licensee shall discriminate or retaliate in any manner against a patient or employee in its nursing home on the basis or for the reason that such patient or employee or any other person has initiated or participated in any proceeding specified in this chapter. A licensee who violates this section is subject to a civil penalty of not more than three thousand dollars.

(2) Any attempt to expel a patient from a nursing home, or any type of discriminatory treatment of a patient by whom, or upon whose behalf, a complaint has been submitted to the department or any proceeding instituted under or related to this chapter within one year of the filing of the complaint or the institution of such action, shall raise a rebuttable presumption that such action was taken by the licensee in retaliation for the filing of the complaint. [1987 c 476 § 25; 1975 1st ex.s. c 99 § 7.]

18.51.230 General inspection before license renewal—Required—Advance notice prohibited. The department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to RCW 18.51.190, conduct at least one general inspection prior to license renewal of all nursing homes in the state without providing advance notice of such inspection. Periodically, such inspection shall take place in part between the hours of 7 p.m. and 5 a.m. or on weekends. [1981 2nd ex.s. c 11 § 4; 1975 1st ex.s. c 99 § 10.]

18.51.240 Alterations or additions—Preliminary inspection and approval. The department may prescribe by regulations that any licensee or applicant desiring to make specific types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. [1981 1st ex.s. c 2 § 23; 1975 1st ex.s. c 99 § 11.]

Additional notes found at www.leg.wa.gov

18.51.250 Nursing homes without violations—Public agencies notified—Priority. On or before February 1st of each year, the department shall notify all public agencies which refer patients to nursing homes of all of the nursing homes in the area found upon inspection within the previous twelve-month period to be without violations. Public agen-

cies shall give priority to such nursing homes in referring publicly assisted patients. [1975 1st ex.s. c 99 § 12.]

18.51.260 Posting citations for violation of RCW 18.51.060. Each citation for a violation specified in RCW 18.51.060 which is issued pursuant to this section and which has become final, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, until the violation is corrected to the satisfaction of the department up to a maximum of one hundred twenty days. The citation or copy shall be posted in a place or places in plain view of the patients in the nursing home, persons visiting those patients, and persons who inquire about placement in the facility. [1987 c 476 § 26; 1975 1st ex.s. c 99 § 13.]

18.51.270 Annual report of citations—Publication—Contents. The department shall annually publish a report listing all licensees by name and address, indicating (1) the number of citations and the nature of each citation issued to each licensee during the previous twelve-month period and the status of any action taken pursuant to each citation, including penalties assessed, and (2) the nature and status of action taken with respect to each uncorrected violation for which a citation is outstanding.

The report shall be available to the public, at cost, at all offices of the department. [1975 1st ex.s. c 99 § 14.]

18.51.280 Chapter cumulative. The remedies provided by this chapter are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts. [1975 1st ex.s. c 99 § 8.]

18.51.290 Writings as public records. Any writing received, owned, used, or retained by the department in connection with the provisions of this chapter is a public record and, as such, is open to public inspection. Copies of such records provided for public inspection shall comply with RCW 42.56.070(1). The names of duly authorized officers, employees, or agents of the department shall be included. [2005 c 274 § 225; 1980 c 184 § 4; 1975 1st ex.s. c 99 § 9.]

Additional notes found at www.leg.wa.gov

18.51.300 Retention and preservation of records of patients. Unless specified otherwise by the department, a nursing home shall retain and preserve all records which relate directly to the care and treatment of a patient for a period of no less than eight years following the most recent discharge of the patient; except the records of minors, which shall be retained and preserved for a period of no less than three years following attainment of the age of eighteen years, or ten years following such discharge, whichever is longer.

If a nursing home ceases operations, it shall make immediate arrangements, as approved by the department, for preservation of its records.

The department shall by regulation define the type of records and the information required to be included in the records to be retained and preserved under this section; which records may be retained in photographic form pursuant to

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chapter 5.46 RCW. [1995 1st sp.s. c 18 § 44; 1981 1st ex.s. c 2 § 24; 1975 1st ex.s. c 175 § 2.]

Additional notes found at www.leg.wa.gov

18.51.310 Comprehensive plan for utilization review—Licensing standards—Regulations. (1) The department shall establish, in compliance with federal and state law, a comprehensive plan for utilization review as necessary to safeguard against unnecessary utilization of care and services and to assure quality care and services provided to nursing facility residents.

(2) The department shall adopt licensing standards suitable for implementing the civil penalty system authorized under this chapter and chapter 74.46 RCW.

(3) No later than July 1, 1981, the department shall adopt all those regulations which meet all conditions necessary to fully implement the civil penalty system authorized by this chapter, chapter 74.42 RCW, and chapter 74.46 RCW. [1991 sp.s. c 8 § 2; 1981 2nd ex.s. c 11 § 5; 1981 1st ex.s. c 2 § 12; 1980 c 184 § 5; 1979 ex.s. c 211 § 67; 1977 ex.s. c 244 § 1.]

Additional notes found at www.leg.wa.gov

18.51.320 Contact with animals—Rules. (1) A nursing home licensee shall give each patient a reasonable opportunity to have regular contact with animals. The licensee may permit appropriate animals to live in the facilities and may permit appropriate animals to visit if the animals are properly supervised.

(2) The department shall adopt rules for the care, type, and maintenance of animals in nursing home facilities. [1984 c 127 § 2.]

Intent—1984 c 127: "The legislature finds that the senior citizens of this state, particularly those living in low-income public housing or in nursing homes, often lead lonely and harsh lives. The legislature recognizes that the warmth and companionship provided by pets can significantly improve the quality of senior citizens' lives. This legislation is intended to insure that senior citizens and persons in nursing homes will not be deprived of access to pets." [1984 c 127 § 1.]

18.51.350 Conflict with federal requirements. If any part of this chapter is found to conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this chapter. [1981 2nd ex.s. c 11 § 1.]

18.51.400 Receivership—Legislative findings. The legislature finds that the closure of a nursing home can have devastating effects on residents and, under certain circumstances, courts should consider placing nursing homes in receivership. As receivership has long existed as a remedy to preserve assets subject to litigation and to reorganize troubled affairs, the legislature finds that receivership is to be used to correct problems associated with either the disregard of residents' health, safety, or welfare or with the possible closure of the nursing home for any reason. [1987 c 476 § 9.]

18.51.410 Receivership—Petition to establish—Grounds. A petition to establish a receivership shall allege that one or more of the following conditions exist and that the

current operator has demonstrated an inability or unwillingness to take actions necessary to immediately correct the conditions alleged:

- (1) The facility is operating without a license;
- (2) The facility has not given the department prior written notice of its intent to close and has not made arrangements within thirty days before closure for the orderly transfer of its residents: PROVIDED, That if the facility has given the department prior written notice but the department has not acted with all deliberate speed to transfer the facility's residents, this shall bar the filing of a petition under this subsection;
- (3) The health, safety, or welfare of the facility's residents is immediately jeopardized;
- (4) The facility demonstrates a pattern and practice of violating chapter 18.51 or 74.42 RCW and rules adopted thereunder such that the facility has demonstrated a repeated inability to maintain minimum patient care standards; or
- (5) The facility demonstrates a pattern or practice of violating a condition level as defined by the federal government under the authority of Title XIX of the social security act.

The department may file a petition in the superior court in the county in which the nursing home is located or in the superior court of Thurston county. The current or former operator or licensee and the owner of the nursing home, if different than the operator or licensee, shall be made a party to the action. The court shall grant the petition if it finds, by a preponderance of the evidence, that one or more of the conditions listed in subsections (1) through (5) of this section exists and, subject to RCW 18.51.420, that the current operator is unable or unwilling to take actions necessary to immediately correct the conditions. [1989 c 372 § 10; 1987 c 476 § 10.]

18.51.420 Receivership—Defenses to petition. It shall be a defense to the petition to establish a receivership that the conditions alleged do not in fact exist. It shall not be a defense to the petition to allege that the respondent did not possess knowledge of the alleged condition or could not have been reasonably expected to know about the alleged condition. In a petition that alleges that the health, safety, or welfare of the residents of the facility is at issue, it shall not be a defense to the petition that the respondent had not been afforded a reasonable opportunity to correct the alleged condition. [1987 c 476 § 11.]

18.51.430 Receivership—Persons qualified to act as receiver. A petition for receivership shall include the name of the candidate for receiver. The department shall maintain a list of qualified persons to act as receivers, however, no person may be considered to be qualified to be a receiver who:

- (1) Is the owner, licensee, or administrator of the facility;
- (2) Is affiliated with the facility;
- (3) Has a financial interest in the facility at the time the receiver is appointed; or
- (4) Has owned or operated a nursing home that has been ordered into receivership.

If a receiver is appointed, he or she may be drawn from the list but need not be, but an appointee shall have experience in providing long-term health care and a history of satisfactory operation of a nursing home. Preference may be

granted to persons expressing an interest in permanent operation of the facility. [1989 c 372 § 3; 1987 c 476 § 12.]

18.51.440 Receivership—Judicial hearing. Upon receipt of a petition for receivership, the court shall hear the matter within fourteen days. Temporary relief may be obtained under chapter 7.40 RCW and other applicable laws. In all actions arising under RCW 18.51.410 through 18.51.530, the posting of a certified copy of the summons and petition in a conspicuous place in the nursing home shall constitute service of those documents upon the respondent. [1989 c 372 § 11; 1987 c 476 § 13.]

18.51.450 Receivership—Appointment of receiver. Upon agreement of the candidate for receiver to the terms of the receivership and any special instructions of the court, the court may appoint that person as receiver of the nursing home if the court determines it is likely that a permanent operator will be found or conditions will be corrected without undue risk of harm to the patients. Appointment of a receiver may be in lieu of or in addition to temporary removal of some or all of the patients in the interests of their health, security, or welfare. A receiver shall be appointed for a term not to exceed six months, but a term may be extended for good cause shown. [1987 c 476 § 14.]

18.51.460 Receivership—Termination—Conditions. (1) The receivership shall terminate:

- (a) When all deficiencies have been eliminated and the court determines that the facility has the management capability to ensure continued compliance with all requirements; or
- (b) When all residents have been transferred and the facility closed.

(2) Upon the termination of a receivership, the court may impose conditions to assure the continued compliance with chapters 18.51 and 74.42 RCW, and, in the case of medicaid contractors, continued compliance with Title XIX of the social security act, as amended, and regulations promulgated thereunder. [1989 c 372 § 12; 1987 c 476 § 15.]

18.51.470 Receivership—Accounting of acts and expenditures by receiver. The receiver shall render to the court an accounting of acts performed and expenditures made during the receivership. Nothing in this section relieves a court-appointed receiver from the responsibility of making all reports and certifications to the department required by law and regulation relating to the receiver's operation of the nursing home, the care of its residents, and participation in the medicaid program, if any. [1987 c 476 § 16.]

18.51.480 Receivership—Compensation, liability—Revision of medicaid reimbursement rate. If a receiver is appointed, the court shall set reasonable compensation for the receiver to be paid from operating revenues of the nursing home. The receiver shall be liable in his or her personal capacity only for negligent acts, intentional acts, or a breach of a fiduciary duty to either the residents of the facility or the current or former licensee or owner of the facility.

The department may revise the nursing home's medicaid reimbursement rate, consistent with reimbursement princi-

ples in chapter 74.46 RCW and rules adopted under that chapter, if revision is necessary to cover the receiver's compensation and other reasonable costs associated with the receivership and transition of control. Rate revision may also be granted if necessary to cover start-up costs and costs of repairs, replacements, and additional staff needed for patient health, security, or welfare. The property return on investment components of the medicaid rate shall be established for the receiver consistent with reimbursement principles in chapter 74.46 RCW. The department may also expedite the issuance of necessary licenses, contracts, and certifications, temporary or otherwise, necessary to carry out the purposes of receivership. [1987 c 476 § 17.]

18.51.490 Receivership—Powers of receiver. Upon appointment of a receiver, the current or former licensee or operator and managing agent, if any, shall be divested of possession and control of the nursing home in favor of the receiver who shall have full responsibility and authority to continue operation of the home and the care of the residents. The receiver may perform all acts reasonably necessary to carry out the purposes of receivership, including, but not limited to:

- (1) Protecting the health, security, and welfare of the residents;
- (2) Remedying violations of state and federal law and regulations governing the operation of the home;
- (3) Hiring, directing, managing, and discharging all consultants and employees for just cause; discharging the administrator of the nursing home; recognizing collective bargaining agreements; and settling labor disputes;
- (4) Receiving and expending in a prudent manner all revenues and financial resources of the home; and
- (5) Making all repairs and replacements needed for patient health, security, and welfare: PROVIDED, That expenditures for repairs or replacements in excess of five thousand dollars shall require approval of the court which shall expedite approval or disapproval for such expenditure.

Upon order of the court, a receiver may not be required to honor leases, mortgages, secured transactions, or contracts if the rent, price, or rate of interest was not a reasonable rent, price, or rate of interest at the time the contract was entered into or if a material provision of the contract is unreasonable. [1987 c 476 § 18.]

18.51.500 Receivership—Financial assistance—Use of revenues and proceeds of facility. Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars. The receiver shall file with the court an accounting for any money expended. Any emergency or transitional expenditure made by the department on behalf of a nursing home not certified to participate in the Medicaid Title XIX program shall be recovered from revenue generated by the facility which revenue is not obligated to the operation of the facility. An action to recover such sums may be filed by the department against the former licensee or owner at the time the expenditure is made, regardless of whether the facility is certified to participate in the Medicaid Title XIX program or not.

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In lieu of filing an action, the department may file a lien on the facility or on the proceeds of the sale of the facility. Such a lien shall take priority over all other liens except for liens for wages to employees. The owner of the facility shall be entitled to the proceeds of the facility or the sale of the facility to the extent that these exceed the liabilities of the facility, including liabilities to the state, receiver, employees, and contractors, at the termination of the receivership.

Revenues relating to services provided by the current or former licensee, operator, or owner and available operating funds belonging to such licensee, operator, or owner shall be under the control of the receiver. The receiver shall consult the court in cases of extraordinary or questionable debts incurred prior to his or her appointment and shall not have the power to close the home or sell any assets of the home without prior court approval.

Priority shall be given to debts and expenditures directly related to providing care and meeting the needs of patients. Any payment made to the receiver shall discharge the obligation of the payor to the owner of the facility. [1989 c 372 § 4; 1987 c 476 § 19.]

18.51.510 Receivership—State medical assistance. If the nursing home is providing care to recipients of state medical assistance, the receiver shall become the medicaid contractor for the duration of the receivership period and shall assume all reporting and other responsibilities required by applicable laws and regulations. The receiver shall be responsible for the refund of medicaid rate payments in excess of costs during the period of the receivership. [1987 c 476 § 20.]

18.51.520 Receivership—Foreclosures and seizures not allowed. No seizure, foreclosure, or interference with nursing home revenues, supplies, real property, improvements, or equipment may be allowed for the duration of the receivership without prior court approval. [1987 c 476 § 21.]

18.51.530 Notice of change of ownership or management. At least sixty days before the effective date of any change of ownership, change of operating entity, or change of management of a nursing home, the current operating entity shall notify separately and in writing, each resident of the home or the resident's guardian of the proposed change. The notice shall include the identity of the proposed new owner, operating entity, or managing entity and the names, addresses, and telephone numbers of departmental personnel to whom comments regarding the change may be directed. If the proposed new owner, operating entity, or managing entity is a corporation, the notice shall include the names of all officers and the registered agent in the state of Washington. If the proposed new owner, operating entity, or managing entity is a partnership, the notice shall include the names of all general partners. This section shall apply regardless of whether the current operating entity holds a medicaid provider contract with the department and whether the operating entity intends to enter such a contract. [1987 c 476 § 22.]

18.51.540 Cost disclosure to attending physicians. (1) The legislature finds that the spiraling costs of nursing home care continue to surmount efforts to contain them, increasing at approximately twice the inflationary rate. The

causes of this phenomenon are complex. By making nursing home facilities and care providers more aware of the cost consequences of care services for consumers, these providers may be inclined to exercise more restraint in providing only the most relevant and cost-beneficial services and care, with a potential for reducing the utilization of those services. The requirement of the nursing home to inform physicians, consumers, and other care providers of the charges of the services that they order may have a positive effect on containing health costs.

(2) All nursing home administrators in facilities licensed under this chapter shall be required to develop and maintain a written procedure for disclosing patient charges to attending physicians with admitting privileges. The nursing home administrator shall have the capability to provide an itemized list of the charges for all health care services that may be ordered by a physician. The information shall be made available on request of consumers, or the physicians or other appropriate health care providers responsible for prescribing care. [1993 c 492 § 268.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.
Additional notes found at www.leg.wa.gov

18.51.550 Investigation of complaints of violations concerning nursing technicians. The department shall investigate complaints of violations of RCW 18.79.350 and 18.79.360 by an employer. The department shall maintain records of all employers that have violated RCW 18.79.350 and 18.79.360. [2003 c 258 § 9.]

Additional notes found at www.leg.wa.gov

18.51.560 Employment of physicians. (1) A nursing home licensed under this chapter may employ physicians for the provision of professional services to its residents under the following conditions:

(a) The nursing home may not in any manner, directly or indirectly, supplant, diminish, or regulate any employed physician's judgment concerning the practice of medicine or the diagnosis and treatment of any patient; and

(b) The employed physicians may provide professional services only to residents of the nursing home or a related living facility.

(2) The employment of physicians as authorized by this section may be through the following entities:

(a) The entity licensed to operate the nursing home; or

(b) A separate entity authorized to conduct business in the state of Washington that has common or overlapping ownership as an affiliate or subsidiary of the licensee, as long as the licensee complies with subsection (3) of this section.

(3) Nothing in this section relieves the licensee of its ultimate responsibility for the daily operations of the nursing home.

(4) Nothing in this section may be construed to interfere with the federal resident rights requirements found in 42 C.F.R. 483.10, or successor rules, or found in this chapter, chapter 74.42 RCW, or the rules adopted by the department addressing resident's rights under this chapter or chapter 74.42 RCW.

(5) As used in this section, "related living facility" means (a) a separate nursing home that is owned, controlled, or managed by the same or an affiliated or subsidiary entity; or (b) a

facility that (i) provides independent living services or *boarding home services under chapter 18.20 RCW, in a single contiguous campus as the nursing home, and (ii) is owned, controlled, or managed by the same or related entity as the nursing home. For purposes of this subsection "contiguous" means land adjoining or touching property on which the nursing home is located, including land divided by a public road. [2011 c 228 § 1.]

*Reviser's note: The term "boarding home" was changed to "assisted living facility" by 2012 c 10.

18.51.920 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 47.]

Chapter 18.52 RCW

NURSING HOME ADMINISTRATORS

Sections

18.52.010	Short title—Intent.
18.52.020	Definitions.
18.52.025	Authority of secretary of health.
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Labor regulations, collective bargaining—Health care activities: Chapter 49.66 RCW.

18.52.010 Short title—Intent. This chapter shall be known as the "Nursing Home Administrator Licensing Act" and is intended to establish and provide for the enforcement of standards for the licensing of nursing home administrators. The legislature finds that the quality of patient care in nursing homes is directly related to the competence of the nursing home administrators. It is the intent of this chapter that licensed nursing home administrators continually maintain (1) the suitable character required and (2) the capacity to consider the available resources and personnel of the facility subject to their authority and come to reasonable decisions implementing patient care. [1977 ex.s. c 243 § 1; 1970 ex.s. c 57 § 1.]

18.52.020 Definitions. When used in this chapter, unless the context otherwise clearly requires:

(1) "Board" means the state board of nursing home administrators representative of the professions and institutions concerned with the care of the chronically ill and infirm aged patients.

(2) "Secretary" means the secretary of health or the secretary's designee.

(3) "Nursing home" means any facility or portion thereof licensed under state law as a nursing home.

(4) "Nursing home administrator" means an individual qualified by education, experience, training, and examination to administer a nursing home. A nursing home administrator administering a nursing home must be in active administrative charge as defined by the board. Nothing in this definition or this chapter shall be construed to prevent any person, so long as he or she is otherwise qualified, from obtaining and maintaining a license even though he or she has not administered or does not continue to administer a nursing home. [1992 c 53 § 1; 1991 c 3 § 116; 1979 c 158 § 44; 1970 ex.s. c 57 § 2.]

18.52.025 Authority of secretary of health. In addition to any other authority provided by law, the secretary shall have the following authority:

(1) To set all fees required in this chapter in accordance with RCW 43.70.250 which may include fees for approval of continuing competency, supervision of practical experience, all applications, verification, renewal, examination, and late penalties;

(2) To establish forms necessary to administer this chapter;

(3) To issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure, except that proceedings concerning the denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) To employ clerical, administrative, and investigative staff as needed to implement and administer this chapter and to employ individuals including those licensed under this chapter to serve as examiners or consultants as necessary to implement and administer this chapter; and

(5) To maintain the official department record of all applicants and licensees. [1992 c 53 § 2.]

18.52.030 Management and supervision of nursing homes by licensed administrators required. Nursing homes operating within this state shall be under the active, overall administrative charge and supervision of an on-site full-time administrator licensed as provided in this chapter. No person acting in any capacity, unless 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. The administrator shall review the decisions upon the administrator's return and amend the decisions if

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necessary. The board shall define by rule the parameters for on-site full-time administrators in nursing homes with small resident populations, nursing homes in rural areas, nursing homes with small resident populations when the nursing home has converted some of its licensed nursing facility bed capacity for use as assisted living or enhanced assisted living services under chapter 74.39A RCW, or separately licensed facilities collocated on the same campus. [2011 c 366 § 5; 2000 c 93 § 6; 1992 c 53 § 3; 1970 ex.s. c 57 § 3.]

Findings—Purpose—Conflict with federal requirements—2011 c 366: See notes following RCW 18.20.020.

18.52.040 Board of nursing home administrators—Created—Membership. The state board of nursing home administrators shall consist of nine members appointed by the governor. Four members shall be persons licensed under this chapter who have at least four years actual experience in the administration of a licensed nursing home in this state immediately preceding appointment to the board and who are not employed by the state or federal government.

Four members shall be representatives of the health care professions providing medical or nursing services in nursing homes who are privately or self-employed; or shall be persons employed by educational institutions who have special knowledge or expertise in the field of health care administration, health care education or long-term care or both, or care of the aged and chronically ill.

One member shall be a resident of a nursing home or a family member of a resident or a person eligible for medicare. No member who is a nonadministrator representative shall have any direct or family financial interest in nursing homes while serving as a member of the board. The governor shall consult with and seek the recommendations of the appropriate statewide business and professional organizations and societies primarily concerned with long term health care facilities in the course of considering his or her appointments to the board. Board members currently serving shall continue to serve until the expiration of their appointments. [2011 c 336 § 488; 1992 c 53 § 4; 1975 1st ex.s. c 97 § 1; 1970 ex.s. c 57 § 4.]

18.52.050 Board—Generally. Members of the board shall be citizens of the United States and residents of this state. All administrator members of the board shall be holders of licenses under this chapter. The terms of all members shall be five years. Any board member may be removed for just cause including a finding of fact of unprofessional conduct or impaired practice. The governor may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term. No board member may serve more than two consecutive terms, whether full or partial. Board members shall serve until their successors are appointed. Board members shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. The board may elect annually a chair and vice chair to direct the meetings of the board. The board shall meet at least four times each year and may hold additional meetings as called by the secretary or the chair. [1992 c 53 § 5; 1970 ex.s. c 57 § 5.]

18.52.061 Board—Authority. In addition to any authority provided by law, the board shall have the following authority:

- (1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;
- (2) To prepare and administer or approve the preparation and administration of examinations for licensure;
- (3) To conduct a hearing on an appeal of a denial of license based on the applicant's failure to meet the minimum qualifications for licensure. The hearing shall be conducted pursuant to chapter 34.05 RCW;
- (4) To establish by rule the procedures for an appeal of an examination failure;
- (5) To adopt rules implementing a continuing competency program;
- (6) To issue subpoenas, statements of charges, statements of intent to deny licenses, and orders, and to delegate in writing to a designee to issue subpoenas; and
- (7) To issue temporary license permits under circumstances defined by the board. [1992 c 53 § 6.]

18.52.066 Application of uniform disciplinary act. 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. [1987 c 150 § 32.]

Additional notes found at www.leg.wa.gov

18.52.071 Qualifications of licensees. The department shall issue a license to any person applying for a nursing home administrator's license who meets the following requirements:

- (1) Successful completion of the requirements for a baccalaureate degree from a recognized institution of higher learning and any federal requirements;
- (2) Successful completion of a practical experience requirement as determined by the board;
- (3) Successful completion of examinations administered or approved by the board, or both, which shall be designed to test the candidate's competence to administer a nursing home;
- (4) At least twenty-one years of age; and
- (5) Not having engaged in unprofessional conduct as defined in RCW 18.130.180 or being unable to practice with reasonable skill and safety as defined in RCW 18.130.170. The board shall establish by rule what constitutes adequate proof of meeting the above requirements.

A limited license indicating the limited extent of authority to administer institutions conducted by and for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination shall be issued to individuals demonstrating membership in such church or denomination. However, nothing in this chapter shall be construed to require an applicant employed by such institution 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. [1996 c 271 § 1; 1992 c 53 § 7.]

18.52.110 License renewal. (1) Every holder of a nursing home administrator's license shall renew that license by

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fulfilling the continuing competency requirement and by complying with administrative procedures, administrative requirements, and fees as determined according to RCW 43.70.250 and 43.70.280. The board may prescribe rules for maintenance of a license for temporary or permanent withdrawal or retirement from the active practice of nursing home administration.

(2) A condition of renewal shall be the presentation of proof by the applicant that the board requirement for continuing competency related to the administration of nursing homes has been met. [1996 c 191 § 26; 1992 c 53 § 8; 1991 c 3 § 120; 1984 c 279 § 69; 1975 1st ex.s. c 30 § 54; 1971 ex.s. c 266 § 9; 1970 ex.s. c 57 § 11.]

Additional notes found at www.leg.wa.gov

18.52.130 Recognition of out-of-state licensees. The secretary may issue a nursing home administrator's license to anyone who holds a current administrator's license from another jurisdiction upon receipt of an application and complying with administrative procedures, administrative requirements, and fees determined according to RCW 43.70.250 and 43.70.280, if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state, and that the applicant is otherwise qualified as determined by the board. [1996 c 191 § 27; 1992 c 53 § 9; 1991 c 3 § 121; 1985 c 7 § 50; 1975 1st ex.s. c 30 § 55; 1970 ex.s. c 57 § 13.]

18.52.140 Penalty for unlicensed acts. It shall be unlawful and constitute a gross misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless he or she is the holder of a nursing home administrator's license issued in accordance with the provisions of this chapter: PROVIDED HOWEVER, That persons carrying out functions and duties delegated by a licensed administrator as defined in RCW 18.52.030 shall not be construed to be committing any unlawful act under this chapter. [1992 c 53 § 10; 1970 ex.s. c 57 § 14.]

18.52.160 Examinations—Times and places—Meetings of board. The board shall meet as often as may be necessary to carry out the duties of the board under this chapter. 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. [1984 c 279 § 71; 1970 ex.s. c 57 § 17.]

Additional notes found at www.leg.wa.gov

Chapter 18.52C RCW NURSING POOLS

Sections

- 18.52C.010 Legislative intent.
- 18.52C.020 Definitions.
- 18.52C.030 Registration required.
- 18.52C.040 Duties of nursing pool—Application of uniform disciplinary act—Criminal background checks.
- 18.52C.050 Registration prerequisite to state reimbursement.

18.52C.010 Legislative intent. The legislature intends to protect the public's right to high quality health care by

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assuring that nursing pools employ, procure or refer competent and qualified health care or long-term care personnel, and that such personnel are provided to health care facilities, agencies, or individuals in a way to meet the needs of residents and patients. [1997 c 392 § 526; 1988 c 243 § 1.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

18.52C.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adult family home" means a residential home licensed pursuant to chapter 70.128 RCW.

(2) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, assisted living facility, group home, or other entity for the delivery of health care or long-term care services, including chore services provided under chapter 74.39A RCW.

(3) "Nursing home" means any nursing home facility licensed pursuant to chapter 18.52 RCW.

(4) "Nursing pool" means any person engaged in the business of providing, procuring, or referring health care or long-term care personnel for temporary employment in health care facilities, such as licensed nurses or practical nurses, nursing assistants, and chore service providers. "Nursing pool" does not include an individual who only engages in providing his or her own services.

(5) "Person" includes an individual, firm, corporation, partnership, or association.

(6) "Secretary" means the secretary of the department of health. [2012 c 10 § 36; 2001 c 319 § 3; 1997 c 392 § 527; 1991 c 3 § 130; 1988 c 243 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Application—2012 c 10: See note following RCW 18.20.010.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

18.52C.030 Registration required. A person who operates a nursing pool shall register the pool with the secretary. Each separate location of the business of a nursing pool shall have a separate registration.

The secretary shall establish administrative procedures, administrative requirements, and fees as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 28; 1991 c 3 § 131; 1988 c 243 § 3.]

18.52C.040 Duties of nursing pool—Application of uniform disciplinary act—Criminal background checks.

(1) The nursing pool shall document that each temporary employee or referred independent contractor provided or referred to health care facilities currently meets the applicable minimum state credentialing requirements.

(2) The nursing pool shall not require, as a condition of employment or referral, that employees or independent contractors of the nursing pool recruit new employees or independent contractors for the nursing pool from among the permanent employees of the health care facility to which the

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nursing pool employee or independent contractor has been assigned or referred.

(3) The nursing pool shall carry professional and general liability insurance to insure against any loss or damage occurring, whether professional or otherwise, as the result of the negligence of its employees, agents or independent contractors for acts committed in the course of their employment with the nursing pool: PROVIDED, That a nursing pool that only refers self-employed, independent contractors to health care facilities shall carry professional and general liability insurance to cover its own liability as a nursing pool which refers self-employed, independent contractors to health care facilities: AND PROVIDED FURTHER, That it shall require, as a condition of referral, that self-employed, independent contractors carry professional and general liability insurance to insure against loss or damage resulting from their own acts committed in the course of their own employment by a health care facility.

(4) The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of registration and the discipline of persons registered under this chapter. The secretary shall be the disciplinary authority under this chapter.

(5) The nursing pool shall conduct a criminal background check on all employees and independent contractors as required under RCW 43.43.842 prior to employment or referral of the employee or independent contractor. [1997 c 392 § 528; 1991 c 3 § 132; 1988 c 243 § 4.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

18.52C.050 Registration prerequisite to state reimbursement. No state agency shall allow reimbursement for the use of temporary health care personnel from nursing pools that are not registered pursuant to this chapter: PROVIDED, That individuals directly retained by a health care facility without intermediaries may be reimbursed. [1988 c 243 § 5.]

Chapter 18.53 RCW OPTOMETRY

Sections

18.53.005	Legislative finding and declaration.
18.53.010	Definition—Scope of practice.
18.53.021	License required.
18.53.030	Temporary permit—When issued.
18.53.035	Credentialing by endorsement.
18.53.040	Exemptions—Exceptions—Limitation.
18.53.050	License renewal.
18.53.060	License applicants—Eligibility—Qualifications—Examinations—Exception.
18.53.070	Licensing—Procedures, requirements, fees.
18.53.100	Disciplinary action—Grounds.
18.53.101	Application of uniform disciplinary act.
18.53.140	Unlawful acts.
18.53.145	Unlawful advertising of indemnity benefits.
18.53.150	Violations generally—Penalty.
18.53.160	Public aid ocular services—Discrimination prohibited.
18.53.165	Discrimination prohibited—Legislative finding and declaration.
18.53.170	Discrimination prohibited—Acceptance of services by state agencies and subdivisions.
18.53.175	Discrimination prohibited—State agencies and subdivisions—Officials and employees.
18.53.180	Discrimination prohibited—Agreements or contracts by state and subdivisions.
18.53.185	Discrimination prohibited—Costs immaterial.

18.53.190	Discrimination prohibited—Application of law.
18.53.200	Privileged communications.
18.53.210	Inactive license status.
18.53.900	Short title—1919 c 144.
18.53.901	Severability—1973 c 48.
18.53.920	Repeal—1919 c 144.

Reviser's note: Certain powers and duties of the department of licensing and the director of licensing transferred to the department of health and the secretary of health. See RCW 43.70.220.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Homeless person vision services: RCW 43.20A.800 through 43.20A.850.

Rebating by practitioners of healing professions prohibited: Chapter 19.68 RCW.

18.53.005 Legislative finding and declaration. The legislature finds and declares that the practice of optometry is a learned profession and affects the health, welfare and safety of the people of this state, and should be regulated in the public interest and limited to qualified persons licensed and authorized to practice under the provisions of chapters 18.53 and 18.54 RCW. [1981 c 58 § 1; 1975 1st ex.s. c 69 § 1.]

18.53.010 Definition—Scope of practice. (1) The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system and the analysis of the process of vision. The practice of optometry may include, but not necessarily be limited to, the following:

(a) The employment of any objective or subjective means or method, including the use of drugs, for diagnostic and therapeutic purposes by those licensed under this chapter and who meet the requirements of subsections (2) and (3) of this section, and the use of any diagnostic instruments or devices for the examination or analysis of the human vision system, the measurement of the powers or range of human vision, or the determination of the refractive powers of the human eye or its functions in general; and

(b) The prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses used in connection therewith; and

(c) The prescription and provision of visual therapy, therapeutic aids, and other optical devices; and

(d) The ascertainment of the perceptive, neural, muscular, or pathological condition of the visual system; and

(e) The adaptation of prosthetic eyes.

(2)(a) Those persons using topical drugs for diagnostic purposes in the practice of optometry shall have a minimum of sixty hours of didactic and clinical instruction in general and ocular pharmacology as applied to optometry, as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to use drugs for diagnostic purposes.

(b) Those persons using or prescribing topical drugs for therapeutic purposes in the practice of optometry must be certified under (a) of this subsection, and must have an additional minimum of seventy-five hours of didactic and clinical instruction as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the

council on postsecondary accreditation to qualify for certification by the optometry board of Washington to use drugs for therapeutic purposes.

(c) Those persons using or prescribing drugs administered orally for diagnostic or therapeutic purposes in the practice of optometry shall be certified under (b) of this subsection, and shall have an additional minimum of sixteen hours of didactic and eight hours of supervised clinical instruction as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to administer, dispense, or prescribe oral drugs for diagnostic or therapeutic purposes.

(d) Those persons administering epinephrine by injection for treatment of anaphylactic shock in the practice of optometry must be certified under (b) of this subsection and must have an additional minimum of four hours of didactic and supervised clinical instruction, as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board to administer epinephrine by injection.

(e) Such course or courses shall be the fiscal responsibility of the participating and attending optometrist.

(f)(i) All persons receiving their initial license under this chapter on or after January 1, 2007, must be certified under (a), (b), (c), and (d) of this subsection.

(ii) All persons licensed under this chapter on or after January 1, 2009, must be certified under (a) and (b) of this subsection.

(iii) All persons licensed under this chapter on or after January 1, 2011, must be certified under (a), (b), (c), and (d) of this subsection.

(3) The board shall establish a list of topical drugs for diagnostic and treatment purposes limited to the practice of optometry, and no person licensed pursuant to this chapter shall prescribe, dispense, purchase, possess, or administer drugs except as authorized and to the extent permitted by the board.

(4) The board must establish a list of oral Schedule III through V controlled substances and any oral legend drugs, with the approval of and after consultation with the pharmacy quality assurance commission. The board may include Schedule II hydrocodone combination products consistent with subsection (6) of this section. No person licensed under this chapter may use, prescribe, dispense, purchase, possess, or administer these drugs except as authorized and to the extent permitted by the board. No optometrist may use, prescribe, dispense, or administer oral corticosteroids.

(a) The board, with the approval of and in consultation with the pharmacy quality assurance commission, must establish, by rule, specific guidelines for the prescription and administration of drugs by optometrists, so that licensed optometrists and persons filling their prescriptions have a clear understanding of which drugs and which dosages or forms are included in the authority granted by this section.

(b) An optometrist may not:

(i) Prescribe, dispense, or administer a controlled substance for more than seven days in treating a particular

patient for a single trauma, episode, or condition or for pain associated with or related to the trauma, episode, or condition; or

(ii) Prescribe an oral drug within ninety days following ophthalmic surgery unless the optometrist consults with the treating ophthalmologist.

(c) If treatment exceeding the limitation in (b)(i) of this subsection is indicated, the patient must be referred to a physician licensed under chapter 18.71 RCW.

(d) The prescription or administration of drugs as authorized in this section is specifically limited to those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry. The prescription or administration of drugs for any other purpose is not authorized by this section.

(5) The board shall develop a means of identification and verification of optometrists certified to use therapeutic drugs for the purpose of issuing prescriptions as authorized by this section.

(6) Nothing in this chapter may be construed to authorize the use, prescription, dispensing, purchase, possession, or administration of any Schedule I or II controlled substance, except Schedule II hydrocodone combination products. The provisions of this subsection must be strictly construed.

(7) With the exception of the administration of epinephrine by injection for the treatment of anaphylactic shock, no injections or infusions may be administered by an optometrist.

(8) Nothing in this chapter may be construed to authorize optometrists to perform ophthalmic surgery. Ophthalmic surgery is defined as any invasive procedure in which human tissue is cut, ablated, or otherwise penetrated by incision, injection, laser, ultrasound, or other means, in order to: Treat human eye diseases; alter or correct refractive error; or alter or enhance cosmetic appearance. Nothing in this chapter limits an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology. Ophthalmic surgery, as defined in this subsection, does not include removal of superficial ocular foreign bodies, epilation of misaligned eyelashes, placement of punctal or lacrimal plugs, diagnostic dilation and irrigation of the lacrimal system, orthokeratology, prescription and fitting of contact lenses with the purpose of altering refractive error, or other similar procedures within the scope of practice of optometry. [2015 c 113 § 1; 2013 c 19 § 2; 2006 c 232 § 1; 2003 c 142 § 1; 1989 c 36 § 1; 1981 c 58 § 2; 1975 1st ex.s. c 69 § 2; 1919 c 144 § 1; RRS § 10147. Prior: 1909 c 235 § 1.]

Additional notes found at www.leg.wa.gov

18.53.021 License required. 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 secretary of health. [1991 c 3 § 133; 1987 c 150 § 38.]

Additional notes found at www.leg.wa.gov

18.53.030 Temporary permit—When issued. The board may at its discretion, issue a permit to practice optometry during the interim between examinations, to any person who has filed an application for examination which has been accepted by the board as admitting the applicant to the next examination. Such permit shall be valid only until the date of

the next examination and shall not be issued sooner than thirty days following any regular examination, and no permit shall be issued to any person who has failed before the board, nor where a certificate has been revoked. [1986 c 259 § 80; 1919 c 144 § 8; RRS § 10153.]

Additional notes found at www.leg.wa.gov

18.53.035 Credentialing by endorsement. An applicant holding a credential in another state may be credentialed to practice in this state without examination if the board determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 332 § 30.]

Additional notes found at www.leg.wa.gov

18.53.040 Exemptions—Exceptions—Limitation. Nothing in this chapter shall be construed to pertain in any manner to the practice of any regularly qualified oculist or physician, who is regularly licensed to practice medicine in the state of Washington, or to any person who is regularly licensed to practice as a dispensing optician in the state of Washington, nor to any person who in the regular course of trade, sells or offers for sale, spectacles or eyeglasses as regular merchandise without pretense of adapting them to the eyes of the purchaser, and not in evasion of this chapter: PROVIDED, That any such regularly qualified oculist or physician or other person shall be subject to the provisions of RCW 18.53.140 (9) through (14), in connection with the performance of any function coming within the definition of the practice of optometry as defined in this chapter: PROVIDED FURTHER, HOWEVER, That in no way shall this section be construed to permit a dispensing optician to practice optometry as defined in chapter 69, Laws of 1975 1st ex. sess. [2000 c 171 § 19; 1975 1st ex.s. c 69 § 15; 1937 c 155 § 3; 1919 c 144 § 15; Rem. Supp. 1937 § 10159. Prior: 1909 c 235 § 13.]

18.53.050 License renewal. Every licensed optometrist shall renew his or her license by complying with administrative procedures, administrative requirements, and fees determined according to RCW 43.70.250 and 43.70.280. [1996 c 191 § 29; 1991 c 3 § 134; 1985 c 7 § 51; 1983 c 168 § 8; 1981 c 277 § 8; 1975 1st ex.s. c 30 § 56; 1971 ex.s. c 266 § 10; 1955 c 275 § 1; 1919 c 144 § 13; RRS § 10158.]

18.53.060 License applicants—Eligibility—Qualifications—Examinations—Exception. From and after January 1, 1940, in order to be eligible for examination for registration, a person shall be a citizen of the United States of America, who shall have a preliminary education of or equal to four years in a state accredited high school and has completed a full attendance course in a regularly chartered school of optometry maintaining a standard which is deemed sufficient and satisfactory by the optometry board, who is a person of good moral character, who has a visual acuity in at least one eye, of a standard known as 20/40 under correction: PROVIDED, That from and after January 1, 1975, in order to be eligible for examination for a license, a person shall have the following qualifications:

(1) Be a graduate of a state accredited high school or its equivalent;

(2) Have a diploma or other certificate of completion from an accredited college of optometry or school of optometry, maintaining a standard which is deemed sufficient and satisfactory by the optometry board, conferring its degree of doctor of optometry or its equivalent, maintaining a course of four scholastic years in addition to preprofessional college level studies, and teaching substantially all of the following subjects: General anatomy, anatomy of the eyes, physiology, physics, chemistry, pharmacology, biology, bacteriology, general pathology, ocular pathology, ocular neurology, ocular myology, psychology, physiological optics, optometrical mechanics, clinical optometry, visual field charting and orthoptics, general laws of optics and refraction and use of the ophthalmoscope, retinoscope and other clinical instruments necessary in the practice of optometry; and

(3) Be of good moral character.

Such person shall file an application for an examination and license with said board at any time thirty days prior to the time fixed for such examination, or at a later date if approved by the board, and such application must be on forms approved by the board, and properly attested, and if found to be in accordance with the provisions of this chapter shall entitle the applicant upon payment of the proper fee, to take the examination prescribed by the board. Such examination shall not be out of keeping with the established teachings and adopted textbooks of the recognized schools of optometry, and shall be confined to such subjects and practices as are recognized as essential to the practice of optometry. All candidates without discrimination, who shall successfully pass the prescribed examination, shall be registered by the board and shall, upon payment of the proper fee, be issued a license. Any license to practice optometry in this state issued by the secretary, and which shall be in full force and effect at the time of passage of chapter 69, Laws of 1975 1st ex. sess., shall be continued. [1995 c 198 § 6; 1991 c 3 § 135; 1975 1st ex.s. c 69 § 4; 1937 c 155 § 1; 1919 c 144 § 5; Rem. Supp. 1937 § 10150. Prior: 1909 c 235 § 7. Formerly RCW 18.53.060 and 18.53.080.]

18.53.070 Licensing—Procedures, requirements, fees. Administrative procedures, administrative requirements, and fees for issuing a license shall be determined as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 30; 1991 c 3 § 136; 1985 c 7 § 52; 1981 c 260 § 5. Prior: 1975 1st ex.s. c 69 § 5; 1975 1st ex.s. c 30 § 57; 1919 c 144 § 9; RRS § 10151; prior: 1909 c 235 § 7.]

18.53.100 Disciplinary action—Grounds. The following constitutes grounds for disciplinary action under chapter 18.130 RCW:

- (1) Any form of fraud or deceit used in securing a license; or
- (2) Any unprofessional conduct, of a nature likely to deceive or defraud the public; or
- (3) The employing either directly or indirectly of any person or persons commonly known as "cappers" or "steerers" to obtain business; or
- (4) To employ any person to solicit from house to house, or to personally solicit from house to house; or

(5) Advertisement in any way in which untruthful, improbable or impossible statements are made regarding treatments, cures or values; or

(6) The use of the term "eye specialist" in connection with the name of such optometrist; or

(7) Inability to demonstrate, in a manner satisfactory to the secretary or the board of optometry, their practical ability to perform any function set forth in RCW 18.53.010 which they utilize in their practice. [1991 c 3 § 137; 1986 c 259 § 81; 1975 1st ex.s. c 69 § 6; 1919 c 144 § 11; RRS § 10156. Prior: 1909 c 235 §§ 11, 12.]

Alcoholism, intoxication, and drug addiction treatment: Chapter 70.96A RCW.

False advertising: Chapter 9.04 RCW.

Violation of Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

Additional notes found at www.leg.wa.gov

18.53.101 Application of uniform disciplinary act. 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. [1987 c 150 § 36; 1986 c 259 § 78.]

Additional notes found at www.leg.wa.gov

18.53.140 Unlawful acts. It shall be unlawful for any person:

(1) To sell or barter, or offer to sell or barter any license issued by the secretary; or

(2) To purchase or procure by barter any license with the intent to use the same as evidence of the holder's qualification to practice optometry; or

(3) To alter with fraudulent intent in any material regard such license; or

(4) To use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license; or

(5) To practice optometry under a false or assumed name, or as a representative or agent of any person, firm or corporation with which the licensee has no connection: PROVIDED, Nothing in this chapter nor in the optometry law shall make it unlawful for any lawfully licensed optometrist or association of lawfully licensed optometrists to practice optometry under the name of any lawfully licensed optometrist who may transfer by inheritance or otherwise the right to use such name; or

(6) To practice optometry in this state either for him or herself or any other individual, corporation, partnership, group, public or private entity, or any member of the licensed healing arts without having at the time of so doing a valid license issued by the secretary of health; or

(7) To in any manner barter or give away as premiums either on his or her own account or as agent or representative for any other purpose, firm or corporation, any eyeglasses, spectacles, lenses or frames; or

(8) To use drugs in the practice of optometry, except as authorized under RCW 18.53.010; or

(9) To use advertising whether printed, radio, display, or of any other nature, which is misleading or inaccurate in any material particular, nor shall any such person in any way misrepresent any goods or services (including but without limita-

tion, its use, trademark, grade, quality, size, origin, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted; or

(10) To advertise the "free examination of eyes," "free consultation," "consultation without obligation," "free advice," or any words or phrases of similar import which convey the impression to the public that eyes are examined free or of a character tending to deceive or mislead the public, or in the nature of "bait advertising;" or

(11) To use an advertisement of a frame or mounting which is not truthful in describing the frame or mounting and all its component parts. Or advertise a frame or mounting at a price, unless it shall be depicted in the advertisement without lenses inserted, and in addition the advertisement must contain a statement immediately following, or adjacent to the advertised price, that the price is for frame or mounting only, and does not include lenses, eye examination and professional services, which statement shall appear in type as large as that used for the price, or advertise lenses or complete glasses, viz.: frame or mounting with lenses included, at a price either alone or in conjunction with professional services; or

(12) To use advertising, whether printed, radio, display, or of any other nature, which inaccurately lays claim to a policy or continuing practice of generally underselling competitors; or

(13) To use advertising, whether printed, radio, display or of any other nature which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services; or

(14) To use advertising whether printed, radio, display, or of any other nature, which states any definite amount of money as "down payment" and any definite amount of money as a subsequent payment, be it daily, weekly, monthly, or at the end of any period of time. [2003 c 142 § 2; 1991 c 3 § 138; 1989 c 36 § 2; 1986 c 259 § 82; 1981 c 58 § 3; 1979 c 158 § 47; 1975 1st ex.s. c 69 § 7; 1945 c 78 § 1; 1935 c 134 § 1; 1919 c 144 § 7; Rem. Supp. 1945 § 10152. Cf. 1909 c 235 § 5.]

False advertising: Chapter 9.04 RCW.

Violation of Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

Additional notes found at www.leg.wa.gov

18.53.145 Unlawful advertising of indemnity benefits. It shall be unlawful for any licensee subject to the provisions of chapter 18.53 RCW to advertise to the effect that benefits in the form of indemnity will accrue to subscribers of health care service contracts for services performed by the licensee for a subscriber when the licensee is neither a health care service contractor nor a participant. A violation of this section shall be punishable as provided in RCW 18.53.140(10). [1969 c 143 § 2.]

18.53.150 Violations generally—Penalty. Any person violating this chapter is guilty of a misdemeanor. [1986 c 259 § 83; 1919 c 144 § 22; RRS § 10163. Prior: 1909 c 235 § 12.]

Additional notes found at www.leg.wa.gov

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18.53.160 Public aid ocular services—Discrimination prohibited. All agencies of the state and its subdivisions, and all commissions, clinics and boards administering relief, public assistance, public welfare assistance, social security, health insurance, or health service under the laws of this state, shall accept the services of licensed optometrists for any service covered by their licenses relating to any person receiving benefits from said agencies or subdivisions and shall pay for such services in the same way as practitioners of other professions may be paid for similar services. None of the said governmental agencies, or agents, officials or employees thereof, including the public schools, in the performance of their duties shall in any way show discrimination among licensed ocular practitioners. [1949 c 149 § 1; Rem. Supp. 1949 § 9991a.]

18.53.165 Discrimination prohibited—Legislative finding and declaration. The legislature finds and declares that the costs of health care to the people are rising disproportionately to other costs and that there is a paramount concern that the right of the people to obtain access to health care in all its facets is being impaired thereby. For this reason, the reliance on the mechanism of insurance, whether profit or nonprofit, is the only effective manner in which the large majority of the people can attain access to quality health care, and it is therefore declared to be in the public interest that health care insurance be regulated to assure that all the people have access to health care rendered by whatever means, and to the greatest extent possible. RCW 18.53.165 through 18.53.190 and 18.53.901, prohibiting discrimination against the legally recognized and licensed profession of optometrists, is necessary in the interest of the public health, welfare and safety. [1973 c 48 § 1.]

18.53.170 Discrimination prohibited—Acceptance of services by state agencies and subdivisions. Notwithstanding any other provision of law, the state and its political subdivisions shall accept the services of licensed optometrists for any service covered by their licenses with relation to any person receiving benefits, salaries, wages, or any other type of compensation from the state, its agencies or subdivisions. [1973 c 48 § 2.]

18.53.175 Discrimination prohibited—State agencies and subdivisions—Officials and employees. The state and its political subdivisions, and all officials, agents, employees, or representatives thereof, are prohibited from in any way discriminating against licensed optometrists in performing and receiving compensation for services covered by their licenses. [1973 c 48 § 3.]

18.53.180 Discrimination prohibited—Agreements or contracts by state and subdivisions. Notwithstanding any other provision of law, the state and its political subdivisions, and all officials, agents, employees, or representatives thereof, are prohibited from entering into any agreement or contract with any individual, group, association, or corporation which in any way, directly or indirectly, discriminates against licensed optometrists in performing and receiving compensation for services covered by their licenses. [1973 c 48 § 4.]

18.53.185 Discrimination prohibited—Costs immaterial. Notwithstanding any other provision of law, for the purpose of RCW 18.53.165 through 18.53.180 and 18.53.190 it is immaterial whether the cost of any policy, plan, agreement, or contract be deemed additional compensation for services, or otherwise. [1973 c 48 § 5.]

18.53.190 Discrimination prohibited—Application of law. RCW 18.53.165 through 18.53.185 shall apply to all agreements, renewals, or contracts issued on or after June 7, 1973.

Health care service contracts having a participant agreement with a majority of the licensed optometrists within its service area may provide benefits to persons or groups of persons through contracts which allow a subscriber to utilize on an equal participation basis the services of any participant provided in the contract, and such contracts shall not be discriminatory. [1975 1st ex.s. c 69 § 8; 1973 c 48 § 6.]

18.53.200 Privileged communications. The information and records of a licensed optometrist pertaining to a patient shall be privileged communications, the same as now or hereafter may exist in the relationship of physician and patient and shall not be released or subjected to disclosure without the consent of the patient or as otherwise required by law. [1975 1st ex.s. c 69 § 14.]

Privileged communications—Physician and patient: RCW 5.60.060.

18.53.210 Inactive license status. The optometry board may adopt rules under this section authorizing an inactive license status.

(1) An individual licensed under this chapter may place his or her license on inactive status. The holder of an inactive license must not practice optometry in this state without first activating the license.

(2) The inactive renewal fee must be established by the secretary under RCW 43.70.250. Failure to renew an inactive license shall result in cancellation of the inactive license in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with rules established by the optometry board.

(4) Provisions relating to disciplinary action against a person with a license are applicable to a person with an inactive license, except that when disciplinary proceedings against a person with an inactive license have been initiated, the license will remain inactive until the proceedings have been completed. [2006 c 232 § 2.]

18.53.900 Short title—1919 c 144. This act shall be known, and may be referred to as, "The Optometry Law". [1919 c 144 § 20.]

18.53.901 Severability—1973 c 48. If any provision of this 1973 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. [1973 c 48 § 7.]

18.53.920 Repeal—1919 c 144. All acts and parts of acts inconsistent with this act are hereby repealed. [1919 c 144 § 19.]

Chapter 18.54 RCW OPTOMETRY BOARD

Sections

18.54.010	Definitions.
18.54.020	Examining committee reconstituted as optometry board.
18.54.030	Composition—Appointments—Qualifications—Terms—Vacancies.
18.54.040	Officers.
18.54.050	Meetings.
18.54.060	Quorum.
18.54.070	Powers and duties—Examinations—Rules.
18.54.076	Application of uniform disciplinary act.
18.54.090	Administrative procedures—Minimum fees.
18.54.130	Compensation and travel expenses of members.
18.54.140	Board may draw from health professions account.
18.54.150	Devolution of powers relating to revocation of certificates.
18.54.900	Short title.
18.54.920	RCW 43.24.060 and 43.24.120 not applicable to optometry.

Reviser's note: Powers and duties of the department of licensing and the director of licensing transferred to the department of health and the secretary of health. See RCW 43.70.220.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.54.010 Definitions. Unless the context clearly indicates otherwise, the terms used in this chapter take their meanings as follows:

- (1) "Board" means the optometry board;
- (2) "License" means a certificate or permit to practice optometry as provided in *RCW 18.53.020 as amended from time to time;
- (3) "Members" means members of the optometry board.

[1963 c 25 § 1.]

***Reviser's note:** RCW 18.53.020 was repealed by 1986 c 259 § 85.

18.54.020 Examining committee reconstituted as optometry board. The examining committee, heretofore created pursuant to RCW 43.24.060, is reorganized and reconstituted as the optometry board. [1963 c 25 § 2.]

RCW 43.24.060 and 43.24.120 not applicable to optometry: RCW 18.54.920.

18.54.030 Composition—Appointments—Qualifications—Terms—Vacancies. 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 or her 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. [2011 c 336 § 489; 1984 c 279 § 54; 1963 c 25 § 3.]

Additional notes found at www.leg.wa.gov

18.54.040 Officers. The board must elect a chair and secretary from its members, to serve for a term of one year or until their successors are elected and qualified. [2011 c 336 § 490; 1963 c 25 § 4.]

18.54.050 Meetings. The board must meet at least once yearly or more frequently upon call of the chair or the secretary of health at such times and places as the chair or the secretary of health may designate by giving three days' notice or as otherwise required by RCW 42.30.075. [2011 c 336 § 491; 1991 c 3 § 139; 1989 c 175 § 65; 1979 c 158 § 48; 1975 1st ex.s. c 69 § 9; 1963 c 25 § 5.]

Additional notes found at www.leg.wa.gov

18.54.060 Quorum. Three members constitute a quorum for the transaction of business of the board. [1963 c 25 § 6.]

18.54.070 Powers and duties—Examinations—Rules. The board has the following powers and duties:

(1) To develop and administer, or approve, or both, a licensure examination. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The board shall adopt rules and regulations to promote safety, protection and the welfare of the public, to carry out the purposes of this chapter, to aid the board in the performance of its powers and duties, and to govern the practice of optometry. [1995 c 198 § 7; 1991 c 3 § 140; 1986 c 259 § 84; 1979 c 158 § 49; 1975 1st ex.s. c 69 § 10; 1963 c 25 § 7.]

Additional notes found at www.leg.wa.gov

18.54.076 Application of uniform disciplinary act. 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. [1987 c 150 § 37; 1986 c 259 § 79.]

Additional notes found at www.leg.wa.gov

18.54.090 Administrative procedures—Minimum fees. The board is an administrative agency of the state of Washington, and the provisions of the administrative procedure act, chapter 34.05 RCW as amended from time to time, govern the conduct and proceedings of the board. Nothing in this chapter shall be construed to give the board the power to set or recommend a minimum schedule of fees to be charged by licensed optometrist. [1963 c 25 § 9.]

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18.54.130 Compensation and travel expenses of members. Members of the board are entitled to receive their travel expenses in accordance with RCW 43.03.050 and 43.03.060. Each member of the board will also be compensated in accordance with RCW 43.03.240. [1984 c 287 § 41; 1975-'76 2nd ex.s. c 34 § 39; 1967 c 188 § 3; 1963 c 25 § 13.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.54.140 Board may draw from health professions account. Notwithstanding any other provisions of law, rule or regulation, the board may draw from the health professions account on vouchers approved by the secretary of health, so much money as is necessary to carry into effect, to administer, and to enforce the provisions of this chapter. [1991 c 3 § 141; 1983 c 168 § 9; 1979 c 158 § 50; 1975 1st ex.s. c 69 § 12; 1963 c 25 § 14.]

Health professions account: RCW 43.70.320.

18.54.150 Devolution of powers relating to revocation of certificates. All powers previously vested in the director of licenses under the provisions of RCW 18.53.100 are vested in the optometry board. [1963 c 25 § 15.]

18.54.900 Short title. This act may be known and cited as the "optometry board act." [1963 c 25 § 16.]

18.54.920 RCW 43.24.060 and 43.24.120 not applicable to optometry. The provisions of RCW 43.24.060 and 43.24.120 are not applicable to the licensing and regulation of the practice of optometry. [1999 c 240 § 6; 1963 c 25 § 18.]

Examining committee reconstituted as optometry board: RCW 18.54.020.

Chapter 18.55 RCW OCULARISTS

Sections

18.55.007	License required.
18.55.010	Licensing—Exemptions—Limitations.
18.55.015	Intent.
18.55.020	Definitions.
18.55.030	Licenses—Renewal.
18.55.040	License applicants—Qualifications—Examination.
18.55.043	Licensing requirements—Military training or experience.
18.55.045	Examination.
18.55.050	Licenses or registrations—Renewal.
18.55.060	Apprentices.
18.55.066	Application of uniform disciplinary act.
18.55.075	Scope of practice.
18.55.085	Unprofessional conduct.
18.55.095	Authority of secretary.
18.55.105	Out-of-state applicants.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.55.007 License required. No person may practice or represent himself or herself as an ocularist without first having a valid license to do so. [1987 c 150 § 40.]

Additional notes found at www.leg.wa.gov

18.55.010 Licensing—Exemptions—Limitations. (1) Nothing in this chapter shall:

(a) Be construed to limit or restrict a duly licensed physician or employees working under the personal supervision of a duly licensed physician from the practices enumerated in this chapter;

(b) Be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in an ophthalmologist's office or laboratory;

(c) Be construed to authorize or permit a licensee under this chapter to hold himself or herself out as being able to, or to offer to, or to undertake to attempt, by any manner of means, to examine or exercise eyes, or diagnose, treat, correct, relieve, operate, or prescribe for disease or any visual deficiency.

(2) Each practitioner duly licensed pursuant to chapters 18.53, 18.57, and 18.71 RCW shall have all the rights and privileges which may accrue under this chapter to ophthalmologists licensed under this chapter. [1980 c 101 § 1.]

18.55.015 Intent. The legislature finds it necessary to regulate the practice of ophthalmologist to protect the public health, safety, and welfare. The legislature intends that only individuals who meet and maintain minimum standards of competence and conduct may provide service to the public. [1991 c 180 § 1.]

18.55.020 Definitions. The terms defined in this section shall have the meaning ascribed to them wherever appearing in this chapter, unless a different meaning is specifically used to such term in such statute.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Ophthalmologist" means a person licensed under this chapter.

(4) "Apprentice" means a person designated an apprentice in the records of the secretary to receive from a licensed ophthalmologist training and direct supervision in the work of an ophthalmologist.

(5) "Stock-eye" means an ocular stock prosthesis that has not been originally manufactured or altered by the ophthalmologist or service provider selling or fitting, or both, said prosthesis to a patient or customer. "Altered" means either taking away or adding materials, or colorization, or otherwise changing the prosthesis' appearance, function, or fit in the socket or on the implant of the patient or customer.

(6) "Modified stock-eye" means a stock-eye that has been altered in some manner by the ophthalmologist or service provider selling or fitting, or both, said prosthesis to a patient or customer. "Altered" is as defined in subsection (5) of this section. A modified stock-eye cannot be defined as either a "custom" or "impression-fitted" eye or prosthesis by adding material that incorporates an impression-surface of the patient or customer socket or implant surfaces.

(7) "Custom-eye" means an original, newly manufactured eye or prosthesis that has been specifically crafted by an ophthalmologist or authorized service provider for the patient or customer to whom it is sold or provided. The "custom-eye" may be either an impression-fitted eye (an impression of the socket or implant surfaces) or an empirical/wax pattern-fitted method eye, or a combination of either, as delineated in the

ophthalmologist examination. [1994 sp.s. c 9 § 504; 1991 c 180 § 2; (1991 c 3 § 142 repealed by 1991 sp.s. c 11 § 2); 1980 c 101 § 2.]

Additional notes found at www.leg.wa.gov

18.55.030 Licenses—Renewal. The secretary shall determine administrative procedures, administrative requirements, and fees for licenses and renewals as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 31; 1991 c 3 § 143; 1980 c 101 § 3.]

18.55.040 License applicants—Qualifications—Examination. No applicant shall be licensed under this chapter until the applicant complies with administrative procedures, administrative requirements, and fees determined by the secretary according to RCW 43.70.250 and 43.70.280. Qualifications must require that the applicant:

(1) Is eighteen years or more of age;

(2) Has graduated from high school or has received a high school equivalency certificate as provided in RCW 28B.50.536;

(3) Is of good moral character; and

(4)(a) Had at least ten thousand hours of apprenticeship training under the direct supervision of a licensed ophthalmologist; or

(b) Successfully completed a prescribed course in ophthalmologist training programs approved by the secretary; or

(c) Has had at least ten thousand hours of apprenticeship training under the direct supervision of a practicing ophthalmologist, or has the equivalent experience as a practicing ophthalmologist, or any combination of training and supervision, not in the state of Washington; and

(5) Successfully passes an examination conducted or approved by the secretary. [2013 c 39 § 2; 1996 c 191 § 32; 1991 c 180 § 4; (1991 c 3 § 144 repealed by 1991 sp.s. c 11 § 2); 1985 c 7 § 53; 1980 c 101 § 4.]

18.55.043 Licensing requirements—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 3.]

18.55.045 Examination. The secretary may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The examination shall determine if the applicant has a thorough knowledge of the principles governing the practice of an ophthalmologist. [1991 c 180 § 5.]

18.55.050 Licenses or registrations—Renewal. Every individual licensed or registered under this chapter shall comply with administrative procedures, administrative requirements, and fees determined by the secretary, as provided by RCW 43.70.250 and 43.70.280 to renew his or her license. [1996 c 191 § 33; 1991 c 180 § 6; (1991 c 3 § 145 repealed by 1991 sp.s. c 11 § 2); 1985 c 7 § 54; 1980 c 101 § 7.]

18.55.060 Apprentices. (1) A person wishing to work as an apprentice ocularist shall submit to the secretary the registration fee and completed application form signed by the applicant and the licensed ocularist who shall be responsible for the acts of the apprentice in the performance of his or her work in the apprenticeship program.

(2) Apprentices shall complete their ten thousand hours of apprenticeship within eight years and shall not work longer as an apprentice unless the secretary determines, after a hearing, that the apprentice was prevented by causes beyond his or her control from completing the apprenticeship and becoming a licensee hereunder in eight years.

(3) No licensee under this chapter may have more than two apprentices in training at one time. [1991 c 180 § 7; 1991 c 3 § 146; 1980 c 101 § 5.]

Reviser's note: This section was amended by 1991 c 3 § 146 and by 1991 c 180 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

18.55.066 Application of uniform disciplinary act. 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. [1987 c 150 § 39; 1986 c 259 § 89.]

Additional notes found at www.leg.wa.gov

18.55.075 Scope of practice. An ocularist designs, fabricates, and fits ocular prosthetic appliances. An ocularist is authorized to perform the necessary procedures to provide an ocular prosthetic service for the patient in the ocularist's office or laboratory on referral of a physician. A referral is not required for the replacement of an ocular prosthetic appliance. The ocularist is authorized to make judgment on the needed care, replacement, and use of an ocular prosthetic appliance. The ocularist is authorized to design, fabricate, and fit human prosthetics in the following categories:

- (1) Stock and custom prosthetic eyes;
- (2) Stock and custom therapeutic scleral shells;
- (3) Stock and custom therapeutic painted iris shells;
- (4) External orbital and facial prosthetics; and
- (5) Ocular conformers: PROVIDED, That nothing

herein shall be construed to allow the fitting or fabricating of contact lenses. [1991 c 180 § 3.]

18.55.085 Unprofessional conduct. An ocularist or authorized service provider shall explain to patients or customers exactly which type of prosthesis or service they are receiving or purchasing. Failure to do so, or misrepresentation of said services, constitutes unprofessional conduct under this chapter and chapter 18.130 RCW. [1991 c 180 § 9.]

18.55.095 Authority of secretary. In addition to any other authority provided by law, the secretary may:

- (1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;
- (2) Establish forms necessary to administer this chapter;
- (3) Issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure. Proceedings concerning the

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denial of licenses based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) Employ clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those licensed under this chapter, to serve as examiners or consultants as necessary to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and licensees;

(6) Determine the minimum education and experience requirements for licensure, including but not limited to approval of educational programs;

(7) Prepare and administer or approve the preparation and administration of examinations for licensure; and

(8) Establish and implement by rule a continuing competency program. [1991 c 180 § 8.]

18.55.105 Out-of-state applicants. An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 180 § 12.]

Chapter 18.57 RCW

OSTEOPATHY—OSTEOPATHIC MEDICINE AND SURGERY

Sections

18.57.001	Definitions.
18.57.003	State board of osteopathic medicine and surgery—Membership—Qualifications—Officers—Meetings—Compensation and travel expenses—Removal.
18.57.005	Powers and duties of board.
18.57.011	Application of uniform disciplinary act.
18.57.015	Impaired osteopathic practitioner program—Content—License surcharge.
18.57.020	Licenses—Application requirements.
18.57.031	License required.
18.57.035	Postgraduate training licenses.
18.57.040	Licensing exemptions.
18.57.045	Inactive licenses.
18.57.050	Renewal of licenses—Continuing education requirements—Information about current professional practice.
18.57.080	Examinations.
18.57.130	Persons licensed by other states—Requirements—Fees.
18.57.140	Advertising regulations.
18.57.145	Use of designations in combination with name.
18.57.150	Applicability of health regulations.
18.57.160	Unlawful practices.
18.57.245	Insurer's report of malpractice payments.
18.57.285	Pain management rules—Repeal—Adoption of new rules.
18.57.290	Down syndrome—Parent information.
18.57.900	Interchangeable terms.
18.57.910	Repeal.

Actions against, limitation of: RCW 4.16.350.

Crimes relating to pregnancy and childbirth: RCW 9A.32.060.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Lien of doctors: Chapter 60.44 RCW.

Rebating by practitioners of healing professions prohibited: Chapter 19.68 RCW.

18.57.001 Definitions. As used in this chapter:

(1) "Board" means the Washington state board of osteopathic medicine and surgery;

(2) "Department" means the department of health;

(3) "Secretary" means the secretary of health; and

(4) "Osteopathic medicine and surgery" means the use of any and all methods in the treatment of disease, injuries, deformities, and all other physical and mental conditions in and of human beings, including the use of osteopathic manipulative therapy. [1996 c 178 § 2; 1991 c 160 § 1; 1991 c 3 § 147; 1979 c 117 § 1.]

Additional notes found at www.leg.wa.gov

18.57.003 State board of osteopathic medicine and surgery—Membership—Qualifications—Officers—Meetings—Compensation and travel expenses—Removal. There is hereby created an agency of the state of Washington, consisting of seven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

On expiration of the term of any member, the governor shall appoint for a period of five years a qualified individual to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be a citizen of the United States and must be an actual resident of this state. One member shall be a consumer who has neither a financial nor a fiduciary relationship to a health care delivery system, and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall elect a chairperson, a secretary, and a vice chairperson from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

An affirmative vote of a simple majority of the members present at a meeting or hearing shall be required for the board to take any official action. The board may not take any action without a quorum of the board members present. A simple majority of the board members currently serving constitutes a quorum of the board.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the physicians licensed under this chapter and in active practice in this state. [1991 c 160 § 2; 1984 c 287 § 42; 1979 c 117 § 2.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.57.005 Powers and duties of board. The board shall have the following powers and duties:

(1) To administer examinations to applicants for licensure under this chapter;

(2) To make such rules and regulations as are not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter;

(3) To establish and administer requirements for continuing professional education as may be necessary or proper to insure the public health and safety as a prerequisite to granting and renewing licenses under this chapter: PROVIDED, That such rules shall not require a licensee under this chapter to engage in continuing education related to or provided by any specific branch, school, or philosophy of medical practice or its political and/or professional organizations, associations, or societies;

(4) To adopt rules governing the administration of sedation and anesthesia in the offices of persons licensed under this chapter, including necessary training and equipment;

(5) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein. [2007 c 273 § 27; 1986 c 259 § 94; 1979 c 117 § 3.]

Effective date—Implementation—2007 c 273: See RCW 70.230.900 and 70.230.901.

Additional notes found at www.leg.wa.gov

18.57.011 Application of uniform disciplinary act. 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. [1987 c 150 § 41; 1986 c 259 § 92.]

Additional notes found at www.leg.wa.gov

18.57.015 Impaired osteopathic practitioner program—Content—License surcharge. (1) To implement an impaired osteopathic practitioner program as authorized by RCW 18.130.175, the board shall enter into a contract with a voluntary substance abuse monitoring program. The impaired osteopathic practitioner program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired osteopathic practitioners to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired osteopathic practitioners including those ordered by the board;
- (f) Providing education, prevention of impairment, post-treatment monitoring, and support of rehabilitated impaired osteopathic practitioners; and
- (g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of fifty dollars on each license issuance or renewal to be collected by the department from every osteopathic practitioner licensed under this chapter. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired osteopathic practitioner program. [2016 c 42 § 1.]

18.57.020 Licenses—Application requirements. A license shall be issued by the secretary authorizing the holder to practice osteopathic medicine and surgery. In order to procure a license to practice osteopathic medicine and surgery, the applicant must provide the board evidence that a diploma has been issued to the applicant by an accredited school of osteopathic medicine and surgery, approved by the board. The application shall be made upon a form prepared by the secretary, with the approval of the board, and it shall contain such information concerning said osteopathic medical instruction and the preliminary education of the applicant as the board may by rule provide. Applicants who have failed to meet the requirements must be rejected.

An applicant for a license to practice osteopathic medicine and surgery must furnish evidence satisfactory to the board that he or she has served for not less than one year in a postgraduate training program approved by the board.

In addition, the applicant may be required to furnish evidence satisfactory to the board that he or she is physically and mentally capable of safely carrying on the practice of osteopathic medicine and surgery. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice osteopathic medicine and surgery. The applicant shall also show that he or she has not been guilty of any conduct which would constitute grounds for denial, suspension, or revocation of such license under the laws of the state of Washington.

Nothing in this section shall be construed as prohibiting the board from requiring such additional information from applicants as it deems necessary.

Nothing in this chapter shall be construed to require any applicant for licensure, or any licensee, as a requisite of retaining or renewing licensure under this chapter, to be a member of any political and/or professional organization. [1991 c 160 § 3; (1991 c 3 § 148 repealed by 1991 sp.s. c 11 § 2); 1979 c 117 § 11; 1959 c 110 § 1; 1919 c 4 § 4; RRS § 10056. Cf. 1909 c 192 § 6. Formerly RCW 18.57.020, 18.57.060, 18.57.070, and 18.57.090.]

18.57.031 License required. No person may practice or represent himself or herself as an osteopathic physician and surgeon without first having a valid license to do so. [1987 c 150 § 42.]

Additional notes found at www.leg.wa.gov

18.57.035 Postgraduate training licenses. The board may grant approval to issue without examination a license to an osteopathic physician and surgeon in a board-approved postgraduate training program in this state if the applicant files an application and meets all the requirements for licensure set forth in RCW 18.57.020 except for completion of one year of postgraduate training. The secretary shall issue a postgraduate osteopathic medicine and surgery license that permits the physician in postgraduate training to practice osteopathic medicine and surgery only in connection with his or her duties as a physician in postgraduate training and does not authorize the physician to engage in any other form of practice. Each physician in postgraduate training shall practice osteopathic medicine and surgery only under the supervision of a physician licensed in this state under this chapter or

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chapter 18.71 RCW, but such supervision shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

All persons licensed under this section shall be subject to the jurisdiction of the board of osteopathic medicine and surgery as set forth in this chapter and chapter 18.130 RCW.

Persons applying for licensure pursuant to this section shall comply with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. Any person who obtains a license pursuant to this section may, apply for licensure under this chapter, but shall submit a new application form and comply with all other licensing requirements of this chapter. [1996 c 191 § 34; 1991 c 160 § 9.]

18.57.040 Licensing exemptions. Nothing in this chapter shall be construed to prohibit:

- (1) Service in the case of emergency;
- (2) The domestic administration of family remedies;
- (3) The practice of midwifery as permitted under chapter 18.50 RCW;
- (4) The practice of osteopathic medicine and surgery by any commissioned medical officer in the United States government or military service or by any osteopathic physician and surgeon employed by a federal agency, in the discharge of his or her official duties;
- (5) Practice by a dentist licensed under chapter 18.32 RCW when engaged exclusively in the practice of dentistry;
- (6) Practice by any osteopathic physician and surgeon from any other state or territory in which he or she resides: PROVIDED, That such practitioner shall not open an office or appoint a place of meeting patients or receive calls within the limits of this state;
- (7) Practice by a person who is a student enrolled in an accredited school of osteopathic medicine and surgery approved by the board: PROVIDED, That the performance of such services be only pursuant to a course of instruction or assignments from his or her instructor or school, and such services are performed only under the supervision of a person licensed pursuant to this chapter or chapter 18.71 RCW;
- (8) Practice by an osteopathic physician and surgeon serving a period of clinical postgraduate medical training in a postgraduate program approved by the board: PROVIDED, That the performance of such services be only pursuant to a course of instruction in said program, and said services are performed only under the supervision and control of a person licensed pursuant to this chapter or chapter 18.71 RCW; or
- (9) Practice by a person who is enrolled in a physician assistant program approved by the board who is performing such services only pursuant to a course of instruction in said program: PROVIDED, That such services are performed only under the supervision and control of a person licensed pursuant to this chapter or chapter 18.71 RCW.

This chapter shall not be construed to apply in any manner to any other system or method of treating the sick or afflicted or to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer. [1991 c 160 § 5; 1919 c 4 § 19; RRS § 10071. FORMER PART OF SECTION: 1921 c 82 § 1, part; 1919 c 4 § 17, part; RRS § 10069, part, now codified in RCW 18.57.130.]

Midwifery: Chapter 18.50 RCW.

18.57.045 Inactive licenses. A licensed osteopathic physician and surgeon who desires to leave the active practice of osteopathic medicine and surgery in this state may secure from the secretary an inactive license. The administrative procedures, administrative requirements, and fees for an inactive license shall be determined as provided in RCW 43.70.250 and 43.70.280. The holder of an inactive license may reactivate his or her license to practice osteopathic medicine and surgery in accordance with rules adopted by the board. [1996 c 191 § 35; 1991 c 160 § 4.]

18.57.050 Renewal of licenses—Continuing education requirements—Information about current professional practice. (1) The board may establish rules and regulations governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. Administrative procedures, administrative requirements, and fees for applications and renewals shall be established as provided in RCW 43.70.250 and 43.70.280. The board shall determine prerequisites for relicensing.

(2) The board must request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, board certification, or other relevant data determined by the board. [2015 c 252 § 10; 1996 c 191 § 36; 1991 c 160 § 6; (1991 c 3 § 149 repealed by 1991 sp.s. c 11 § 2); 1985 c 7 § 55; 1979 c 117 § 12; 1975 1st ex.s. c 30 § 58; 1971 ex.s. c 266 § 11; 1919 c 4 § 6; RRS § 10058. Cf. 1909 c 192 § 7. Formerly RCW 18.57.050 and 18.57.120.]

Intent—2015 c 252: See note following RCW 70.112.010.

18.57.080 Examinations. Applicants for a license to practice osteopathic medicine and surgery must successfully complete an examination prepared or approved by the board. The examination shall be conducted in the English language, shall determine the applicant's fitness to practice osteopathic medicine and surgery, and may be in whole or in part in writing or by practical application on those general subjects and topics of which knowledge is commonly and generally required of applicants who have obtained the doctor of osteopathic medicine and surgery conferred by accredited schools of osteopathic medicine and surgery approved by the board. If an examination does not encompass the subject of osteopathic principles and practice, the applicant shall be required to complete the board-administered examination. The board may prepare and administer or approve preparation and administration of examinations on such subjects as the board deems advisable. The examination papers of any examination administered by the board shall form a part of the applicant's records and shall be retained as determined by the secretary for a period of not less than one year. All applicants for examination or reexamination shall comply with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 37; 1991 c 160 § 7; (1991 c 3 § 150 repealed by 1991 sp.s. c 11 § 2); 1979 c 117 § 13; 1919 c 4 § 5; RRS § 10057. Cf. 1909 c 192 § 6. Formerly RCW 18.57.080 and 18.57.090, part.]

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18.57.130 Persons licensed by other states—Requirements—Fees. Any person who meets the requirements of RCW 18.57.020 as now or hereafter amended and has been examined and licensed to practice osteopathic medicine and surgery by a state board of examiners of another state or the duly constituted authorities of another state authorized to issue licenses to practice osteopathic medicine and surgery upon examination, shall upon approval of the board be entitled to receive a license to practice osteopathic medicine and surgery in this state upon complying with administrative procedures, administrative requirements, and paying a fee determined as provided in RCW 43.70.250 and 43.70.280 and filing a copy of his or her license in such other state, duly certified by the authorities granting the license to be a full, true, and correct copy thereof, and certifying also that the standard of requirements adopted by such authorities as provided by the law of such state is substantially equal to that provided for by the provisions of this chapter: PROVIDED, That no license shall issue without examination to any person who has previously failed in an examination held in this state: PROVIDED, FURTHER, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this chapter: PROVIDED, FURTHER, That no one shall be permitted to practice surgery under this chapter who has not a license to practice osteopathic medicine and surgery. [1996 c 191 § 38. Prior: 1991 c 160 § 10; 1991 c 3 § 151; 1985 c 7 § 56; 1979 c 117 § 15; 1975 1st ex.s. c 30 § 59; 1921 c 82 § 1; 1919 c 4 § 17; RRS § 10069. Formerly RCW 18.57.010, 18.57.040, part, and 18.57.130.]

18.57.140 Advertising regulations. On all cards, signs, letterheads, envelopes and billheads used by those licensed by this chapter to practice osteopathic medicine and surgery the word "osteopathic" shall always immediately precede the word "physician" and if the word "surgeon" is used in connection with said name, the word "osteopathic" shall also immediately precede said word "surgeon." [1996 c 178 § 3; 1919 c 4 § 20; RRS § 10072.]

Additional notes found at www.leg.wa.gov

18.57.145 Use of designations in combination with name. No provision of this chapter or of any other law shall prevent any person who holds a valid, unrevoked certificate to practice osteopathic medicine and surgery from using in combination with his or her name the designation "Osteopathic Physician and Surgeon" or the abbreviation of his or her professional degree, Doctor of Osteopathy (D.O.), provided he or she hold such professional degree, or any combination thereof upon his or her stationery, in any professional lists or directories or in other places where the same may properly appear as permitted within the canons of ethics approved by the board. [1991 c 160 § 8; 1959 c 110 § 2.]

18.57.150 Applicability of health regulations. All persons granted licenses or certificates under this chapter shall be subject to the state and municipal regulations relating to the control of contagious diseases, the reporting and certifying to births and deaths, and all matters pertaining to public health; and all such reports shall be accepted as legal. [1919 c 4 § 18; RRS § 10070.]

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Vital statistics: Chapter 70.58 RCW.

18.57.160 Unlawful practices. Every person falsely claiming himself or herself to be the person named in a certificate issued to another, or falsely claiming himself or herself to be the person entitled to the same, is guilty of forgery under RCW 9A.60.020. [2003 c 53 § 131; 1981 c 277 § 9; 1919 c 4 § 15; RRS § 10067. Cf. 1909 c 192 § 15.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Forgery: RCW 9A.60.020.

18.57.245 Insurer's report of malpractice payments. Every institution or organization providing professional liability insurance to osteopathic physicians shall send a complete report to the board of all malpractice settlements, awards, or payments in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured physician's incompetency or negligence in the practice of osteopathic medicine. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a year as the result of the alleged physician's incompetence or negligence in the practice of medicine regardless of the dollar amount of the award or payment.

Reports required by this section shall be made within sixty days of the date of the settlement or verdict. Failure to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars. [1986 c 300 § 10.]

Legislative findings—1986 c 300: "(1) The legislature finds that medical malpractice will be reduced if hospitals establish coordinated medical malpractice prevention programs and provide greater scrutiny of physicians prior to granting or renewing hospital privileges.

(2) The legislature also finds that physician disciplinary boards can reduce medical malpractice if they have access to additional information on health care providers who are incompetent or impaired." [1986 c 300 § 1.]

Additional notes found at www.leg.wa.gov

18.57.285 Pain management rules—Repeal—Adoption of new rules. (1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-853-510 through 246-853-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician and surgeon from the specialty consultation requirement;

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(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure. [2010 c 209 § 3.]

18.57.290 Down syndrome—Parent information. An osteopathic physician and surgeon licensed under this chapter who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the physician provides the parent with the Down syndrome diagnosis. [2016 c 70 § 3.]

18.57.900 Interchangeable terms. The words "certificates" and "licenses" shall be known as interchangeable terms in this chapter. [1919 c 4 § 21; RRS § 10073.]

18.57.910 Repeal. All acts and parts of acts in conflict herewith are hereby repealed. [1919 c 4 § 22.]

Chapter 18.57A RCW

OSTEOPATHIC PHYSICIAN ASSISTANTS

Sections

- 18.57A.010 Definitions.
- 18.57A.020 Rules fixing qualifications and restricting practice—Interim permit—Applications—Discipline—Information about current professional practice.
- 18.57A.023 Practice requirements—Military training and experience.
- 18.57A.025 Application of uniform disciplinary act.
- 18.57A.030 Limitations on practice—Scope of practice.
- 18.57A.035 Limitation on practice—Remote sites.
- 18.57A.040 Practice arrangements.
- 18.57A.050 Osteopathic physician's liability, responsibility.
- 18.57A.060 Limitations on health care services.
- 18.57A.070 Physician assistant acupuncturist—Licensure.
- 18.57A.080 Signing and attesting to required documentation.
- 18.57A.090 Pain management rules—Repeal—Adoption of new rules.
- 18.57A.100 Down syndrome—Parent information.

Reviser's note: Certain powers and duties of the department of licensing and the director of licensing transferred to the department of health and the secretary of health. See RCW 43.70.220.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

18.57A.010 Definitions. (1) "Osteopathic physician's assistant" means a person who has satisfactorily completed a board-approved training program designed to prepare persons to practice osteopathic medicine to a limited extent;

(2) "Board" means the board of osteopathic medicine and surgery; and

(3) "Practice medicine" shall have the meaning defined in RCW 18.57.001. [1979 c 117 § 17; 1971 ex.s. c 30 § 7.]

Additional notes found at www.leg.wa.gov

18.57A.020 Rules fixing qualifications and restricting practice—Interim permit—Applications—Discipline—Information about current professional practice.

(1) The board shall adopt rules fixing the qualifications and the educational and training requirements for licensure as an osteopathic physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the board and within one year successfully take and pass an examination approved by the board, providing such examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of osteopathic medicine as of July 1, 1999, shall continue to be licensed.

(2)(a) The board shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a training course.

(b) Such rules shall provide:

(i) That the practice of an osteopathic physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each osteopathic physician assistant shall practice osteopathic medicine only under the supervision and control of an osteopathic physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physicians at the place where services are rendered. The board may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

(3) Applicants for licensure shall file an application with the board on a form prepared by the secretary with the approval of the board, detailing the education, training, and experience of the physician assistant and such other information as the board may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of fifty dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department of health and placed in the health professions account for physician assistant participation in an impaired practitioner program. Each applicant shall furnish proof satisfactory to the board of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the board and is eligible to take the examination approved by the board;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing osteopathic medicine as an osteopathic physician assistant with reasonable skill and safety. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice as an osteopathic physician assistant.

(4) The board may approve, deny, or take other disciplinary action upon the application for a license as provided in the uniform disciplinary act, chapter 18.130 RCW. The license shall be renewed as determined under RCW 43.70.250 and 43.70.280.

(5) The board must request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, board certification, or other relevant data determined by the board. [2016 c 42 § 2; 2015 c 252 § 11; 1999 c 127 § 2; 1998 c 132 § 13; 1996 c 191 § 39; 1993 c 28 § 1; 1992 c 28 § 1; 1971 ex.s. c 30 § 8.]

Intent—2015 c 252: See note following RCW 70.112.010.

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.57A.023 Practice requirements—Military training and experience. An applicant with military training or experience satisfies the training and experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 4.]

18.57A.025 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs the approval or disapproval of applications and the discipline of persons authorized to practice under this chapter. [1986 c 259 § 93.]

Additional notes found at www.leg.wa.gov

18.57A.030 Limitations on practice—Scope of practice. (1) An osteopathic physician assistant as defined in this chapter may practice osteopathic medicine in this state only with the approval of the delegation agreement by the board and only to the extent permitted by the board. An osteopathic physician assistant who has received a license but who has not received board approval of the delegation agreement under RCW 18.57A.040 may not practice. An osteopathic physician assistant shall be subject to discipline by the board under the provisions of chapter 18.130 RCW.

(2) Osteopathic physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their board-approved delegation agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the degree of supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery so long as the practice is not beyond the supervising physician's own scope of expertise and practice. [2016 c 155 § 24; 2013 c 203 § 3; 1993 c 28 § 2; 1986 c 259 § 95; 1971 ex.s. c 30 § 9.]

Rules—2013 c 203: See note following RCW 18.57A.035.

Additional notes found at www.leg.wa.gov

18.57A.035 Limitation on practice—Remote sites.

(1) No licensee may be utilized in a remote site without approval by the board or its designee. A "remote site" is defined as a setting physically separate from the sponsoring or supervising physician's primary place for meeting patients or a setting where the physician is present less than twenty-five percent of the practice time of the licensee.

(2)(a) Approval by the commission or its designee may be granted to utilize a licensee in a remote site if:

(i) There is a demonstrated need for the utilization;

(ii) Adequate provision for timely communication between the primary or alternate physician and the licensee exists;

(iii) The responsible sponsoring or supervising physician spends at least ten percent of the practice time of the licensee in the remote site unless the sponsoring physician demonstrates that adequate supervision is being maintained by an alternate method such as telecommunication.

(b) The names of the sponsoring or supervising physician and the licensee must be prominently displayed at the entrance to the clinic or in the reception area.

(3) No physician assistant holding an interim permit may be utilized in a remote site setting. [2013 c 203 § 1.]

Rules—2013 c 203: "The medical quality assurance commission and board of osteopathic medicine and surgery, working in collaboration with a statewide organization representing the interests of physician assistants, shall adopt new rules modernizing the current rules regulating physician assistants and report to the legislature by December 31, 2014." [2013 c 203 § 8.]

18.57A.040 Practice arrangements. (1) No osteopathic physician assistant practicing in this state shall be employed or supervised by an osteopathic physician or physician group without the approval of the board.

(2) Prior to commencing practice, an osteopathic physician assistant licensed in this state shall apply to the board for permission to be employed or supervised by an osteopathic physician or physician group. The delegation agreement shall be jointly submitted by the osteopathic physician or physician group and osteopathic physician assistant. The secretary may charge a fee as provided in RCW 43.70.250 to recover the cost for the plan review. The delegation agreement shall delineate the manner and extent to which the physician assistant would practice and be supervised. Whenever an osteopathic physician assistant is practicing in a manner inconsistent with the approved delegation agreement, the board may take disciplinary action under chapter 18.130 RCW.

(3) An osteopathic physician may enter into delegation agreements with five physician assistants, but may petition the board for a waiver of this limit. However, no osteopathic physician may have under his or her supervision: (a) More than three physician assistants who are working in remote sites; or (b) more physician assistants than the osteopathic physician can adequately supervise. [2013 c 203 § 4; 1993 c 28 § 3; 1991 c 3 § 152. Prior: 1986 c 259 § 96; 1985 c 7 § 57; 1975 1st ex.s. c 30 § 60; 1971 ex.s. c 30 § 10.]

Rules—2013 c 203: See note following RCW 18.57A.035.

Additional notes found at www.leg.wa.gov

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18.57A.050 Osteopathic physician's liability, responsibility. No osteopathic physician who supervises a licensed osteopathic physician assistant in accordance with and within the terms of any permission granted by the board shall be considered as aiding and abetting an unlicensed person to practice osteopathic medicine within the meaning of RCW 18.57.001: PROVIDED, HOWEVER, That the supervising osteopathic physician and the osteopathic physician assistant shall retain professional and personal responsibility for any act which constitutes the practice of osteopathic medicine as defined in RCW 18.57.001 when performed by the physician assistant. [1993 c 28 § 4; 1986 c 259 § 97; 1971 ex.s. c 30 § 11.]

Additional notes found at www.leg.wa.gov

18.57A.060 Limitations on health care services. No health care services may be performed under this chapter in any of the following areas:

(1) The measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) Nothing in this section shall preclude the performance of routine visual screening.

(5) The practice of dentistry or dental hygiene as defined in chapter 18.32 and 18.29 RCW respectively. The exemptions set forth in RCW 18.32.030, paragraphs (1) and (8), shall not apply to a physician's assistant.

(6) The practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulations of the spine.

(7) The practice of podiatric medicine and surgery as defined in chapter 18.22 RCW. [2000 c 171 § 21; 1973 c 77 § 20; 1971 ex.s. c 30 § 12.]

Additional notes found at www.leg.wa.gov

18.57A.070 Physician assistant acupuncturist—Licensure. Any physician assistant acupuncturist currently licensed as a physician assistant may continue to perform acupuncture under the physician assistant license as long as he or she maintains licensure as a physician assistant. [2000 c 93 § 41; 1977 ex.s. c 233 § 1.]

East Asian medicine: Chapter 18.06 RCW.

18.57A.080 Signing and attesting to required documentation. An osteopathic physician assistant may sign and attest to any certificates, cards, forms, or other required documentation that the osteopathic physician assistant's supervising osteopathic physician or osteopathic physician group may sign, provided that it is within the osteopathic physician assistant's scope of practice and is consistent with the terms of the osteopathic physician assistant's delegation agreement as required by this chapter. [2013 c 203 § 5; 2007 c 264 § 2.]

Rules—2013 c 203: See note following RCW 18.57A.035.

Finding—Intent—2007 c 264: See note following RCW 18.71A.090.

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18.57A.090 Pain management rules—Repeal—Adoption of new rules. (1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-854-120 through 246-854-150.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician's assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician's assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physician's assistants in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure. [2010 c 209 § 4.]

18.57A.100 Down syndrome—Parent information.

An osteopathic physician's assistant who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the osteopathic physician's assistant provides the parent with the Down syndrome diagnosis. [2016 c 70 § 4.]

**Chapter 18.59 RCW
OCCUPATIONAL THERAPY**

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18.59.010 Purpose. In order to safeguard the public health, safety, and welfare; to protect the public from being misled by incompetent, unethical, and unauthorized persons; to assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants; and to assure the availability of occupational therapy services of high quality to persons in need of such services, it is the purpose of this chapter to provide for the regulation of persons offering occupational therapy services to the public. [1984 c 9 § 2.]

18.59.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the board of occupational therapy practice.

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

(3) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter.

(4) "Occupational therapy" is the scientifically based use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. The practice encompasses evaluation, treatment, and consultation. Specific occupational therapy services include but are not limited to: Using specifically designed activities and exercises to enhance neurodevelopmental, cognitive, perceptual motor, sensory integrative, and psychomotor functioning; administering and interpreting tests such as manual muscle and sensory integration; teaching daily living skills; developing prevocational skills and play and avocational capabilities; designing, fabricating, or applying selected orthotic and prosthetic devices or selected adaptive equipment; wound care management as provided in RCW 18.59.170; and adapting environments for persons with disabilities. These services are provided individually, in groups, or through social systems.

(5) "Occupational therapy aide" means a person who is trained to perform specific occupational therapy techniques under professional supervision as defined by the board but who does not perform activities that require advanced training in the sciences or practices involved in the profession of occupational therapy.

(6) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the supervision or with the regular consultation of an occupational therapist.

(7) "Occupational therapy practitioner" means a person who is credentialed as an occupational therapist or occupational therapy assistant.

(8) "Person" means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this chapter.

(9) "Secretary" means the secretary of health.

(10) "Sharp debridement" means the removal of loose or loosely adherent devitalized tissue with the use of tweezers, scissors, or scalpel, without any type of anesthesia other than topical anesthetics. "Sharp debridement" does not mean surgical debridement.

(11) "Wound care management" means a part of occupational therapy treatment that facilitates healing, prevents edema, infection, and excessive scar formation, and minimizes wound complications. Treatment may include: Assessment of wound healing status; patient education; selection and application of dressings; cleansing of the wound and surrounding areas; application of topical medications, as provided under RCW 18.59.160; use of physical agent modalities; application of pressure garments and nonweight-bearing orthotic devices, excluding high-temperature custom foot orthotics made from a mold; sharp debridement of devitalized tissue; debridement of devitalized tissue with other agents; and adapting activities of daily living to promote independence during wound healing. [2011 c 88 § 1; 1999 c 333 § 1; 1991 c 3 § 153; 1984 c 9 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Rules—2011 c 88: See note following RCW 18.59.170.

18.59.031 License required. No person may practice or represent himself or herself as an occupational therapy practitioner without first having a valid license to do so. [1999 c 333 § 2; 1987 c 150 § 44.]

Additional notes found at www.leg.wa.gov

18.59.040 Activities not regulated by chapter—Limited permits. This chapter shall not be construed as preventing or restricting the practice, services, or activities of:

(1) A person licensed in this state under any other law from engaging in the profession or occupation for which the person is licensed;

(2) A person employed as an occupational therapist or occupational therapy assistant by the government of the United States, if the person provides occupational therapy solely under the directions or control of the organization by which the person is employed;

(3) A person pursuing a course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program if the activities and services constitute a part of a supervised course of study, if the person is designated by a title which clearly indicated the person's status as a student or trainee;

(4) A person fulfilling the supervised fieldwork experience requirements of RCW 18.59.050, if the activities and

services constitute a part of the experience necessary to meet the requirements of RCW 18.59.050;

(5) A person performing occupational therapy services in the state, if the services are performed for no more than ninety working days and if:

(a) The person is licensed under the laws of another state which has licensure requirements at least as stringent as the requirements of this chapter, as determined by the board; or

(b) The person has met commonly accepted standards for the practice of occupational therapy as specifically defined by the board;

(6) A person employed by or supervised by an occupational therapist as an occupational therapy aide;

(7) A person with a limited permit. A limited permit may be granted to persons who have completed the education and experience requirements of this chapter, or education and experience requirements which the board deems equivalent to those specified as requirements for licensure. The limited permit allows the applicant to practice in association with an occupational therapist. The limited permit is valid until the results of the next examination have been made public. One extension of this permit may be granted if the applicant has failed the examination, but during this period the person shall be under the direct supervision of an occupational therapist;

(8) Any persons who teach daily living skills, develop prevocational skills, and play and avocational capabilities, or adapt equipment or environments for the handicapped, or who do specific activities to enhance cognitive, perceptual motor, sensory integrative and psychomotor skills, but who do not hold themselves out to the public by any title, initials, or description of services as being engaged in the practice of occupational therapy; or

(9) Any person who designs, fabricates, or applies orthotic or prosthetic devices which are prescribed by a health care professional authorized by the laws of the state of Washington to prescribe the device or to direct the design, fabrication or application of the device. [1985 c 296 § 1; 1984 c 9 § 5.]

18.59.050 Licenses—Application—Requirements—Waiver. (1) An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application on forms provided by the department showing to the satisfaction of the board that the applicant meets the requirements specified in this subsection.

(a) The applicant shall be of good moral character.

(b) The applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, with concentration in biological or physical science, psychology, sociology, and with education in selected manual skills.

(i) For an occupational therapist, such a program shall be nationally accredited and approved by rules of the board.

(ii) For an occupational therapy assistant, such a program shall be nationally accredited and approved by rules of the board.

(c) The applicant shall submit to the board evidence of having successfully completed a period of supervised fieldwork experience at a recognized educational institution or a

training program approved by the educational institution at which the applicant met the academic requirements.

(i) For an occupational therapist, a minimum of six months of supervised fieldwork experience is required.

(ii) For an occupational therapy assistant, a minimum of two months of supervised fieldwork experience is required.

(d) An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided in RCW 18.59.060.

(2) The board may waive the educational requirements specified under subsection (1)(b)(ii) of this section for an occupational therapy assistant who has met the experience and any other requirements established by the board. Upon successful completion of the examination required of the occupational therapist, the individual shall be granted a license. [1984 c 9 § 6.]

18.59.060 Examinations. (1) A person applying for licensure shall demonstrate eligibility in accordance with RCW 18.59.050 and shall apply for examination upon a form and in such a manner as the department prescribes. The application shall be accompanied by the fee prescribed by RCW 18.59.110, which fee shall not be refunded. A person who fails an examination may apply for reexamination. The application shall be accompanied by the prescribed fee.

(2) An applicant for licensure under this chapter shall be given a written examination to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy and occupational therapy theory and practice, including the applicant's professional skills of occupational therapy techniques and methods, and such other subjects as the board deems useful to determine the applicant's fitness to practice. The board shall approve the examination and establish standards for acceptable performance.

(3) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. The examination shall be given at least twice each year at such places as the board determines, and the board shall give reasonable public notice of the examinations in accordance with its rules at least sixty days prior to the administration of the examination.

(4) Applicants may obtain their examination scores and may review their papers in accordance with such rules as the board establishes. [1984 c 9 § 7.]

18.59.070 Waiver of examination and licensing requirements—Applicants licensed in other states or territories. (1) The board shall waive the examination and grant a license to a person engaged in the profession of an occupational therapist or an occupational therapy assistant on June 7, 1984, if the board determines that the person meets commonly accepted standards for the profession, as established by rule of the board. The board may waive the examination, education, or experience requirements and grant a license to any person meeting the standards adopted by the board under this section after June 7, 1984, if the board considers the requirements for licensure in this chapter as having been met.

(2) The board may grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States,

which requires standards for licensure considered by the board to be equivalent to the requirements for licensure under this chapter.

(3) The board shall waive the education and experience requirements for licensure in RCW 18.59.050(1) (c) and (d) for applicants for licensure who present evidence to the board that they have been engaged in the practice of occupational therapy for the three years immediately prior to June 7, 1984. The proof of actual practice shall be presented to the board in such a manner as the board prescribes by rule. To obtain the waiver, an applicant shall file an application for examination no later than six months from June 7, 1984. An applicant who has filed for examination under this subsection shall be excluded from the licensure requirement until the date the results of the examination are made public, and may conduct the appropriate activities under *RCW 18.59.030. [1984 c 9 § 8.]

*Reviser's note: RCW 18.59.030 was repealed by 1986 c 259 § 103.

18.59.080 License issuance—Posting required. The secretary shall issue a license to a person who meets the licensing requirements of this chapter upon payment of the prescribed license fee. The license shall be posted in a conspicuous location at the person's work site. [1991 c 3 § 154; 1984 c 9 § 9.]

18.59.090 Renewal of licenses—Reinstatement of suspended or revoked licenses—Inactive status. (1) Licenses under this chapter shall be renewed at the time and in the manner determined by the secretary and with the payment of a renewal fee. The board shall establish requirements for license renewal which provide evidence of continued competency. The secretary may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules which may include additional continuing education or examination requirements.

(2) A suspended license is subject to expiration and may be renewed as provided in this section, but the renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any applicable late fee.

(3) Any occupational therapist or occupational therapy assistant licensed under this chapter not practicing occupational therapy or providing services may place his or her license in an inactive status. The secretary may prescribe requirements for maintaining an inactive status and converting from an inactive or active status. [1991 c 3 § 155; 1990 c 13 § 1; 1984 c 9 § 10.]

18.59.100 Duty to refer medical cases. An occupational therapist shall, after evaluating a patient and if the case is a medical one, refer the case to a physician for appropriate medical direction if such direction is lacking. Treatment by an occupational therapist of such a medical case may take place only upon the referral of a physician, osteopathic physician, podiatric physician and surgeon, naturopath, chiropractor, physician assistant, psychologist, optometrist, or

advanced registered nurse practitioner licensed to practice in this state. [2015 c 10 § 1; 1999 c 333 § 3; 1986 c 259 § 101; 1984 c 9 § 11.]

Additional notes found at www.leg.wa.gov

18.59.110 Applications—Licenses—Limited permits.

Administrative procedures, administrative requirements, and fees shall be established as provided in RCW 43.70.250 and 43.70.280 for applications, initial and renewal licenses, and limited permits. [1996 c 191 § 41; 1991 c 3 § 156; 1985 c 7 § 58; 1984 c 9 § 12.]

18.59.120 Board of occupational therapy practice established—Members—Terms—Meetings—Compensation.

(1) There is established a board of occupational therapy practice. The board shall consist of five members appointed by the governor, who may consider the persons who are recommended for appointment by occupational therapy associations of the state. The members of the board shall be residents of the state. Four of the members shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointment. Three of these four board members shall be occupational therapists who shall at all times be holders of licenses for the practice of occupational therapy in the state, except for the initial members of the board, all of whom shall fulfill the requirements for licensure under this chapter. At least one member of the board shall be an occupational therapy assistant licensed to assist in the practice of occupational therapy, except for the initial member appointed to this position, who shall fulfill the requirements for licensure as an occupational therapy assistant under this chapter. The remaining member of the board shall be a member of the public with an interest in the rights of consumers of health services.

(2) The governor shall, within sixty days after June 7, 1984, appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years. Appointments made thereafter shall be for three-year terms, but no person shall be appointed to serve more than two consecutive full terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the initial appointed members, who shall serve through the last calendar day of the year in which they are appointed before commencing the terms prescribed by this section. The governor shall make appointments for vacancies in unexpired terms within ninety days after the vacancies occur.

(3) The board shall meet during the first month of each calendar year to select a chair and for other purposes. At least one additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chair or the written request of any two board members. A majority of members of the board constitutes a quorum for all purposes. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade, or administer examinations or, upon request of an applicant who fails an examination, to prepare a response indicating the reasons for the applicant's failure.

(4) Members of the board shall receive compensation in the amount of fifty dollars for each day's attendance at proper

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meetings of the committee. [2011 c 336 § 492; 1984 c 9 § 13.]

18.59.130 Board—Powers and duties—Rules.

(1) The board shall administer, coordinate, and enforce this chapter, evaluate qualifications under this chapter, and provide for supervision of examinations of applicants for licensure under this chapter.

(2) The board may adopt such rules as it deems necessary in the administration of this chapter. [1986 c 259 § 102; 1984 c 9 § 14.]

Additional notes found at www.leg.wa.gov

18.59.141 Application of uniform disciplinary act.

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. [1987 c 150 § 43; 1986 c 259 § 100.]

Additional notes found at www.leg.wa.gov

18.59.150 Board—Staff.

The secretary shall provide such administrative and investigative staff as are necessary for the board to carry out its duties under this chapter. [1991 c 3 § 157; 1984 c 9 § 15.]

18.59.160 Purchase, storage, and administration of medications—Restrictions—Liability.

An occupational therapist licensed under this chapter may purchase, store, and administer topical and transdermal medications such as hydrocortisone, dexamethasone, fluocinonide, topical anesthetics, lidocaine, magnesium sulfate, and other similar medications for the practice of occupational therapy as prescribed by a health care provider with prescribing authority as authorized in RCW 18.59.100. Administration of medication must be documented in the patient's medical record. Some medications may be applied by the use of iontophoresis and phonophoresis. An occupational therapist may not purchase, store, or administer controlled substances. A pharmacist who dispenses such drugs to a licensed occupational therapist is not liable for any adverse reactions caused by any method of use by the occupational therapist. Application of a topical medication to a wound is subject to RCW 18.59.170. [2011 c 88 § 2; 2009 c 68 § 1.]

Rules—2011 c 88: See note following RCW 18.59.170.

18.59.170 Scope of practice—Wound care management.

(1)(a) An occupational therapist licensed under this chapter may provide wound care management only:

(i) In the course of occupational therapy treatment to return patients to functional performance in their everyday occupations under the referral and direction of a physician or other authorized health care provider listed in RCW 18.59.100 in accordance with their scope of practice. The referring provider must evaluate the patient prior to referral to an occupational therapist for wound care; and

(ii) After filing an affidavit under subsection (2)(b) of this section.

(b) An occupational therapist may not delegate wound care management, including any form of debridement.

(2)(a) Debridement is not an entry-level skill and requires specialized training, which must include: Indications

and contraindications for the use of debridement; appropriate selection and use of clean and sterile techniques; selection of appropriate tools, such as scissors, forceps, or scalpel; identification of viable and devitalized tissues; and conditions which require referral back to the referring provider. Training must be provided through continuing education, mentoring, cotreatment, and observation. Consultation with the referring provider is required if the wound exposes anatomical structures underlying the skin, such as tendon, muscle, or bone, or if there is an obvious worsening of the condition, or signs of infection.

(b)(i) Occupational therapists may perform wound care management upon showing evidence of adequate education and training by submitting an affidavit to the board attesting to their education and training as follows:

(A) For occupational therapists performing any part of wound care management, except sharp debridement with a scalpel, a minimum of fifteen hours of mentored training in a clinical setting is required to be documented in the affidavit. Mentored training includes observation, cotreatment, and supervised treatment by a licensed occupational therapist who is authorized to perform wound care management under this section or a health care provider who is authorized to perform wound care management in his or her scope of practice. Fifteen hours mentored training in a clinical setting must include a case mix similar to the occupational therapist's expected practice;

(B) For occupational therapists performing sharp debridement with a scalpel, a minimum of two thousand hours in clinical practice and an additional minimum of fifteen hours of mentored sharp debridement training in the use of a scalpel in a clinical setting is required to be documented in the affidavit. Mentored training includes observation, cotreatment, and supervised treatment by a licensed occupational therapist who is authorized to perform sharp debridement with a scalpel under this section or a health care provider who is authorized to perform wound care management, including sharp debridement with a scalpel, in his or her scope of practice. Both the two thousand hours in clinical practice and the fifteen hours of mentored training in a clinical setting must include a case mix similar to the occupational therapist's expected practice.

(ii) Certification as a certified hand therapist by the hand therapy certification commission or as a wound care specialist by the national alliance of wound care or equivalent organization approved by the board is sufficient to meet the requirements of (b)(i) of this subsection.

(c) The board shall develop an affidavit form for the purposes of (b) of this subsection. [2011 c 88 § 3.]

Rules—2011 c 88: "The board of occupational therapy practice and the department of health are authorized to create rules necessary to implement this act." [2011 c 88 § 4.]

18.59.900 Short title. This chapter shall be known and may be cited as the occupational therapy practice act. [1984 c 9 § 1.]

Chapter 18.64 RCW PHARMACISTS

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Dentists, filling prescriptions issued by: RCW 18.32.685.

Drugs and cosmetics: Chapter 69.04 RCW.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Licensee and registrant requirements regarding ephedrine, pseudoephedrine, or phenylpropanolamine: RCW 69.43.160.

Poisons and dangerous drugs, dispensing and sale: Chapter 69.40 RCW.

Rebating by vendors of medical supplies prohibited: Chapter 19.68 RCW.

Regulation of practice of medicine and surgery, sale of drugs and medicines: State Constitution Art. 20 § 2.

Unlawful to refill trademarked containers: RCW 19.76.110.

18.64.001 Pharmacy quality assurance commission—Creation—Membership—Oath—Vacancies.

There shall be a state pharmacy quality assurance commission consisting of fifteen members, to be appointed by the governor by and with the advice and consent of the senate. Ten of the members shall be designated as pharmacist members, four of the members shall be designated a public member, and one member shall be a pharmacy technician.

Each pharmacist member shall be a citizen of the United States and a resident of this state, and at the time of his or her appointment shall have been a duly registered pharmacist under the laws of this state for a period of at least five consecutive years immediately preceding his or her appointment and shall at all times during his or her incumbency continue to be a duly licensed pharmacist: PROVIDED, That subject to the availability of qualified candidates the governor shall appoint pharmacist members representative of the areas of practice and geographically representative of the state of Washington.

The public member shall be a citizen of the United States and a resident of this state. The public member shall be appointed from the public at large, but shall not be affiliated with any aspect of pharmacy.

Members of the commission shall hold office for a term of four years, and the terms shall be staggered so that the terms of office of not more than two members will expire simultaneously on the third Monday in January of each year.

No person who has been appointed to and served for two four year terms shall be eligible for appointment to the commission.

Each member shall qualify by taking the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of his or her appointment and until his or her successor is appointed and qualified.

In case of the resignation or disqualification of a member, or a vacancy occurring from any cause, the governor shall appoint a successor for the unexpired term. [2013 c 19 § 3; 2011 c 336 § 493; 1984 c 153 § 1; 1981 c 338 § 17; 1973 1st ex.s. c 18 § 1; 1963 c 38 § 16; 1935 c 98 § 1; RRS § 10132. Formerly RCW 43.69.010.]

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18.64.003 Commission—Meetings—Chairperson—Compensation and travel expenses. Members of the commission shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. The commission shall elect a chairperson and a vice chairperson from among its members. Each member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2013 c 19 § 4; 1984 c 287 § 43; 1979 c 90 § 1; 1975-'76 2nd ex.s. c 34 § 40; 1963 c 38 § 17; 1935 c 98 § 2; RRS § 10132-1. Formerly RCW 43.69.020.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.64.005 Commission—Powers and duties. The commission shall:

- (1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;
- (2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;
- (3) Establish the qualifications for licensure of pharmacists or pharmacy interns;
- (4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the commission, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;
- (5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the commission;
- (6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;
- (7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the commission;
- (8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;
- (9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of the commission. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;
- (10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers. [2013 c 19 § 5; 1990 c 83 § 1; 1989 1st ex.s. c 9 § 409; 1984 c 153 § 2; 1981 c 67 § 21; 1979 c 90 § 2; 1973 1st ex.s. c 18 § 2; 1963 c 38 § 18; 1935 c 98 § 3; RRS § 10132-2. Formerly RCW 43.69.030.]

Additional notes found at www.leg.wa.gov

18.64.008 Commission—Contraceptive availability awareness. To increase awareness of the availability of contraceptives in pharmacies, the pharmacy quality assurance commission shall develop a sticker or sign to be displayed on the window or door of a pharmacy that initiates or modifies drug therapy related to self-administered contraception. [2016 c 132 § 1.]

18.64.009 Department of health—Enforcement employees declared to be peace officers—Authority. Employees of the department, who are designated by the commission as enforcement officers, are declared to be peace officers and shall be vested with police powers to enforce chapters 18.64, 69.04, 69.36, 69.40, 69.41, and 69.50 RCW and all other laws enforced by the commission. [2013 c 19 § 6; 1989 1st ex.s. c 9 § 411; 1985 c 7 § 59; 1979 c 90 § 4; 1969 ex.s. c 82 § 1.]

Additional notes found at www.leg.wa.gov

18.64.011 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a business license application and a business license expiration date common to each renewable license endorsement.

(3) "Chart order" means a lawful order for a drug or device entered on the chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his or her designated agent.

(4) "Closed door long-term care pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a long-term care facility or hospice program, and that is not a retailer of goods to the general public.

(5) "Commission" means the pharmacy quality assurance commission.

(6) "Compounding" means the act of combining two or more ingredients in the preparation of a prescription.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(8) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(9) "Department" means the department of health.

(10) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(11) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(12) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(13) "Drug" and "devices" do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes. "Drug" also does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(14) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(15) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state to acquire or possess legend drugs. Health care entity includes a freestanding outpatient surgery center, a residential treatment facility, and a freestanding cardiac care center. "Health care entity" does not include an individual practitioner's office or a multipractitioner clinic, regardless of ownership, unless the owner elects licensure as a health care entity. "Health care entity" also does not include an individual practitioner's office or multipractitioner clinic identified by a hospital on a pharmacy application or renewal pursuant to RCW 18.64.043.

(16) "Hospice program" means a hospice program certified or paid by medicare under Title XVIII of the federal social security act, or a hospice program licensed under chapter 70.127 RCW.

(17) "Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services including, but not limited to, services in a hospital, long-term care facility, hospice program, mental health facility, drug abuse treatment center, residential habilitation center, or a local, state, or federal correction facility.

(18) "Labeling" means the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(19) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(20) "Long-term care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(21) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the commission. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately

licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(22) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(23) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(24) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(25) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy.

(26) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted.

(27) "Poison" does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(28) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(29) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(30) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

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

(32) "Shared pharmacy services" means a system that allows a participating pharmacist or pharmacy pursuant to a request from another participating pharmacist or pharmacy to process or fill a prescription or drug order, which may include but is not necessarily limited to preparing, packaging, labeling, data entry, compounding for specific patients, dispensing, performing drug utilization reviews, conducting claims adjudication, obtaining refill authorizations, reviewing therapeutic interventions, or reviewing chart orders.

(33) "Wholesaler" means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers. [2016 c 148 § 1; 2015 c 234 § 3. Prior: 2013 c 146 § 1; 2013 c 144 § 13; 2013 c 19 § 7; prior: 2009 c 549 § 1008;

1997 c 129 § 1; 1995 c 319 § 2; 1989 1st ex.s. c 9 § 412; 1984 c 153 § 3; 1982 c 182 § 29; 1979 c 90 § 5; 1963 c 38 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2013 c 146: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 7, 2013]." [2013 c 146 § 3.]

Additional notes found at www.leg.wa.gov

18.64.020 Licensing required. It shall hereafter be unlawful for any person to practice pharmacy or to institute or operate any pharmacy unless such person shall be a licensed pharmacist or shall place in charge of said pharmacy a licensed pharmacist: PROVIDED, That persons licensed as manufacturers or as wholesalers, and their employees, acting within the scope of their licenses, shall be exempt from this section. [1979 c 90 § 6; 1899 c 121 § 1; RRS § 10126. Prior: 1891 c 113 § 1. Formerly RCW 18.67.010, part.]

18.64.040 Examination fee. Every applicant for license examination under this chapter shall pay the sum determined by the secretary under RCW 43.70.250 and 43.70.280 before the examination is attempted. [1996 c 191 § 42; 1989 1st ex.s. c 9 § 413; 1979 c 90 § 7; 1971 ex.s. c 201 § 1; 1963 c 38 § 2; 1949 c 153 § 1; 1935 c 98 § 4; 1909 c 213 § 5; 1899 c 121 § 10; Rem. Supp. 1949 § 10135.]

Additional notes found at www.leg.wa.gov

18.64.043 Pharmacy license—Fee—Display—Declaration of ownership and location—Penalties. (1) The owner of each pharmacy shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the secretary may approve, for the period ending on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, and each such owner shall at the time of filing proof of payment of such fee as provided in RCW 18.64.045 as now or hereafter amended, file with the commission on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy mentioned therein.

(2)(a) For a hospital licensed under chapter 70.41 RCW, the license of location provided under this section may include any individual practitioner's office or multipractitioner clinic owned, operated, or under common control with a hospital, and identified by the hospital on the pharmacy application or renewal. The definition of "hospital" under RCW 70.41.020 to exclude "clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more," does not limit the ability of a hospital to include individual practitioner's offices or multipractitioner clinics owned, operated, or under common control with a hospital on the pharmacy application or renewal or otherwise prevent the implementation of chapter 118, Laws of 2016. A hospital that elects to include one or more offices

or clinics under this subsection on its hospital pharmacy application shall describe the type of services relevant to the practice of pharmacy provided at each such office or clinic as requested by the commission. Any updates to the application, renewal, or related forms that are necessary to accomplish the provision of this licensure option must be made no later than ninety days after June 9, 2016. Nothing in this section limits the ability of a hospital to transfer drugs to another location consistent with federal laws and RCW 70.41.490, regardless of whether or not an election has been made with respect to adding the receiving location to the hospital's pharmacy license under this section.

(b) This chapter must be interpreted in a manner that supports regulatory, inspection, and investigation standards that are reasonable and appropriate based on the level of risk and the type of services provided in a pharmacy, including pharmacy services provided in a hospital and pharmacy services provided in an individual practitioner office or multipractitioner clinic owned, operated, or under common control with a hospital regardless of the office or clinic's physical address. The commission shall provide clear and specific information regarding the standards to which particular pharmacy services will be held, as appropriate, based on the type of pharmacy service provided at a particular location.

(c) The secretary may adopt rules to establish an additional reasonable fee for any such office or clinic.

(3) It shall be the duty of the owner to immediately notify the commission of any change of location, ownership, or licensure and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

(4) Failure to comply with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense.

(5) In the event such license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(6) If the commission determines that rules are necessary for the immediate implementation of the inspection standards described in this section, it must adopt rules under the emergency rule-making process in RCW 34.05.350, with such emergency rules effective not later than ninety days after June 9, 2016. The commission shall then begin the process to adopt any necessary permanent rules in accordance with chapter 34.05 RCW. The commission shall ensure that during the transition to the permanent rules adopted under this section, an emergency rule remains in effect without a break between the original emergency rule and any subsequent emergency rules that may be necessary. The commission shall ensure that during the transition to permanent rules there is no interruption in provision of the licensure option described under this section. [2016 c 118 § 2; 2015 c 234 § 4; 1996 c 191 § 43; 1991 c 229 § 3; 1989 1st ex.s. c 9 § 414; 1984 c 153 § 4; 1979 c 90 § 8; 1971 ex.s. c 201 § 2; 1963 c 38 § 3; 1949 c 153 § 4; 1935 c 98 § 8; 1909 c 213 § 12; Rem. Supp. 1949 § 10145. Formerly RCW 18.67.020.]

Intent—2016 c 118: "The intent of this legislation is to make clear the legislature's directive to the commission to allow hospital pharmacy licenses to include individual practitioner offices and multipractitioner clinics owned, operated, or under common control with a hospital and that such offices and

clinics are regulated, inspected, and investigated according to the level of service provided. While legislation providing for such a system was enacted in 2015, it has yet to be implemented. The legislature wishes to specify a clear timeline for implementation." [2016 c 118 § 1.]

Additional notes found at www.leg.wa.gov

18.64.044 Shopkeeper's registration—Penalty—Ephedrine/pseudoephedrine/phenylpropanolamine. (1) A shopkeeper registered as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is required to register as a shopkeeper through the business licensing system established under chapter 19.02 RCW, and he or she must pay the fee determined by the secretary for registration, and on a date to be determined by the secretary thereafter the fee determined by the secretary for renewal of the registration; and must at all times keep said registration or the current renewal thereof conspicuously exposed in the location to which it applies. In event such shopkeeper's registration is not renewed by the business license expiration date, no renewal or new registration may be issued except upon payment of the registration renewal fee and the business license delinquency fee under chapter 19.02 RCW. This registration fee does not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the secretary under subsection (2) of this section may not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who vends or sells, or offers to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell constitutes a separate offense.

(5) A shopkeeper who is not a licensed pharmacy may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The commission must issue a warning to a shopkeeper who violates this subsection, and may suspend or revoke the registration of the shopkeeper for a subsequent violation.

(6) A shopkeeper who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the shopkeeper's total prior monthly sales of nonprescription drugs in March through October. In November through February, the shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the shopkeeper's total prior monthly sales of nonprescription drugs. For purposes of this section,

(2016 Ed.)

"monthly sales" means total dollars paid by buyers. The commission may suspend or revoke the registration of a shopkeeper who violates this subsection.

(b) The shopkeeper must maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the commission. The records must be available for inspection by the commission or any law enforcement agency and must be maintained for two years. The commission may suspend or revoke the registration of a shopkeeper who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor. [2013 c 144 § 14; 2013 c 19 § 8; 2005 c 388 § 5; 2004 c 52 § 2. Prior: 1989 1st ex.s. c 9 § 401; 1989 c 352 § 1; 1984 c 153 § 5; 1982 c 182 § 30; 1979 c 90 § 17.]

Reviser's note: This section was amended by 2013 c 19 § 8 and by 2013 c 144 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—2004 c 52: "The legislature finds that quantities of ephedrine, pseudoephedrine, and phenylpropanolamine continue to be sold at the wholesale and retail levels far in excess of legitimate consumer needs. The excess quantities being sold are most likely used in the criminal manufacture of methamphetamine. It is therefore necessary for the legislature to further regulate the sales of these drugs, including sales from out-of-state sources, in order to reduce the threat that methamphetamine presents to the people of the state." [2004 c 52 § 1.]

Business licensing

delinquency fee—Rate—Disposition: RCW 19.02.085.

expiration date: RCW 19.02.090.

system

generally: RCW 18.64.011(2).

to include additional licenses: RCW 19.02.110.

Additional notes found at www.leg.wa.gov

18.64.045 Manufacturer's license—Fees—Display—Declaration of ownership and location—Penalties. (1) The owner of each and every place of business which manufactures drugs shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, for which the owner shall receive a license of location from the department, which shall entitle the owner to manufacture drugs at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location or ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon

compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. [2003 c 53 § 132; 1996 c 191 § 44; 1991 c 229 § 4; 1989 1st ex.s. c 9 § 416; 1984 c 153 § 6; 1979 c 90 § 9; 1971 ex.s. c 201 § 3; 1963 c 38 § 4; 1949 c 153 § 5; Rem. Supp. 1949 § 10154-4. Formerly RCW 18.67.140.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

18.64.046 Wholesaler's license—Required—Authority of licensee—Penalty—Ephedrine/pseudoephedrine/phenylpropanolamine. (1) The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The commission may suspend or revoke the license of any wholesaler that violates this section.

(5) The commission may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related com-

panies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW 69.43.035.

(6) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(7)(a) No wholesaler may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in RCW 69.43.105.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW, and each sale in violation of this subsection constitutes a separate offense. [2013 c 19 § 9; 2005 c 388 § 6; 2004 c 52 § 3; 2003 c 53 § 133; 1996 c 191 § 45; 1991 c 229 § 5; 1989 1st ex.s. c 9 § 417; 1984 c 153 § 7; 1979 c 90 § 18.]

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

18.64.047 Itinerant vendor's or peddler's registration—Fee—Penalties—Ephedrine/pseudoephedrine/phenylpropanolamine. (1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The commission shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection.

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the commission. The records must be available for inspection by the commission or any law enforcement agency and must be maintained for two years. The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor. [2013 c 19 § 10; 2005 c 388 § 7; 2004 c 52 § 4; 2003 c 53 § 134; 1996 c 191 § 46; 1991 c 229 § 6; 1989 1st ex.s. c 9 § 418; 1984 c 153 § 8; 1979 c 90 § 10; 1971 ex.s. c 201 § 4; 1963 c 38 § 5; 1949 c 153 § 3; 1935 c 98 § 7; 1899 c 121 § 16; Rem. Supp. 1949 § 10141. Formerly RCW 18.60.010 through 18.60.030.]

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

18.64.050 Duplicate for lost or destroyed license or certificate—Certified documents—Fees. In the event that a license or certificate issued by the department is lost or destroyed, the person to whom it was issued may obtain a duplicate thereof upon furnishing proof of such fact satisfactory to the department and the payment of a fee determined by the secretary.

In the event any person desires any certified document to which he or she is entitled, he or she shall receive the same upon payment of a fee determined by the secretary. [2011 c 336 § 494; 1989 1st ex.s. c 9 § 419; 1984 c 153 § 9; 1963 c 38 § 6; 1935 c 98 § 9; RRS § 10145-1. FORMER PART OF SECTION: 1935 c 98 § 10; RRS § 10145-2, now codified as RCW 18.64.055.]

Additional notes found at www.leg.wa.gov

(2016 Ed.)

18.64.080 Licensing of pharmacists—Registration of interns—Prerequisites—Examinations—Reciprocity—Fees—Renewal. (1) The department may license as a pharmacist any person who has filed an application therefor, subscribed by the person under oath or affirmation, containing such information as the commission may by regulation require, and who—

(a) Is at least eighteen years of age;

(b) Has satisfied the commission that he or she is of good moral and professional character, that he or she will carry out the duties and responsibilities required of a pharmacist, and that he or she is not unfit or unable to practice pharmacy by reason of the extent or manner of his or her proven use of alcoholic beverages, drugs, or controlled substances, or by reason of a proven physical or mental disability;

(c) Holds a baccalaureate degree in pharmacy or a doctor of pharmacy degree granted by a school or college of pharmacy which is accredited by the commission;

(d) Has completed or has otherwise met the internship requirements as set forth in commission rules;

(e) Has satisfactorily passed the necessary examinations approved by the commission and administered by the department.

(2) The department shall, at least once in every calendar year, offer an examination to all applicants for a pharmacist license who have completed their educational and internship requirements pursuant to rules promulgated by the commission. The examination shall be determined by the commission. In case of failure at a first examination, the applicant shall have within three years the privilege of a second and third examination. In case of failure in a third examination, the applicant shall not be eligible for further examination until he or she has satisfactorily completed additional preparation as directed and approved by the commission. The applicant must pay the examination fee determined by the secretary for each examination taken. Upon passing the required examinations and complying with all the rules and regulations of the commission and the provisions of this chapter, the department shall grant the applicant a license as a pharmacist and issue to him or her a certificate qualifying him or her to enter into the practice of pharmacy.

(3) Any person enrolled as a student of pharmacy in an accredited college may file with the department an application for registration as a pharmacy intern in which application he or she shall be required to furnish such information as the commission may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the department a fee to be determined by the secretary. All certificates issued to pharmacy interns shall be valid for a period to be determined by the commission, but in no instance shall the certificate be valid if the individual is no longer making timely progress toward graduation, provided however, the commission may issue an intern certificate to a person to complete an internship to be eligible for initial licensure or for the reinstatement of a previously licensed pharmacist.

(4) To assure adequate practical instruction, pharmacy internship experience as required under this chapter shall be obtained after registration as a pharmacy intern by practice in any licensed pharmacy or other program meeting the requirements promulgated by regulation of the commission, and

shall include such instruction in the practice of pharmacy as the commission by regulation shall prescribe.

(5) The department may, without examination other than one in the laws relating to the practice of pharmacy, license as a pharmacist any person who, at the time of filing application therefor, is currently licensed as a pharmacist in any other state, territory, or possession of the United States. The person shall produce evidence satisfactory to the department of having had the required secondary and professional education and training and who was licensed as a pharmacist by examination in another state prior to June 13, 1963, shall be required to satisfy only the requirements which existed in this state at the time he or she became licensed in such other state, and that the state in which the person is licensed shall under similar conditions grant reciprocal licenses as pharmacist without examination to pharmacists duly licensed by examination in this state. Every application under this subsection shall be accompanied by a fee determined by the department.

(6) The department shall provide for, regulate, and require all persons licensed as pharmacists to renew their license periodically, and shall prescribe the form of such license and information required to be submitted by all applicants. [2013 c 19 § 11. Prior: 1989 1st ex.s. c 9 §§ 403, 420; 1989 c 352 § 3; 1984 c 153 § 10; 1981 c 147 § 1; 1979 c 90 § 11; 1972 ex.s. c 9 § 1; prior: 1971 ex.s. c 292 § 25; 1971 ex.s. c 201 § 5; 1963 c 38 § 7; 1931 c 56 § 1; 1927 c 253 § 1; 1923 c 180 § 3; RRS § 10126-3. Formerly RCW 18.64.010, part, 18.64.080 and 18.64.090, part.]

Additional notes found at www.leg.wa.gov

18.64.140 License—Fees—Display—Inactive license.

Every licensed pharmacist who desires to practice pharmacy shall secure from the department a license, the fee for which shall be determined by the secretary under RCW 43.70.250 and 43.70.280. The administrative procedures, administrative requirements, renewal fee, and late renewal fee shall also be determined under RCW 43.70.250 and 43.70.280. Payment of this fee shall entitle the licensee to a pharmacy law book, subsequent current mailings of all additions, changes, or deletions in the pharmacy practice act, chapter 18.64 RCW, and all additions, changes, or deletions of commission and department regulations. The current license shall be conspicuously displayed to the public in the pharmacy to which it applies. Any licensed pharmacist who desires to leave the active practice of pharmacy in this state may secure from the department an inactive license. The initial license and renewal fees shall be determined by the secretary under RCW 43.70.250 and 43.70.280. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the commission. [2013 c 19 § 12; 1996 c 191 § 47; 1991 c 229 § 7; 1989 1st ex.s. c 9 § 421; 1984 c 153 § 11; 1979 c 90 § 12; 1971 ex.s. c 201 § 6; 1963 c 38 § 9; 1949 c 153 § 2; 1935 c 98 § 5; 1899 c 121 § 11; Rem. Supp. 1949 § 10136. Formerly RCW 18.64.140 and 18.64.150.]

Additional notes found at www.leg.wa.gov

18.64.160 Disciplinary action against pharmacist's and intern's licenses—Grounds. In addition to the grounds under RCW 18.130.170 and 18.130.180, the commission

may take disciplinary action against the license of any pharmacist or intern upon proof that:

(1) His or her license was procured through fraud, misrepresentation, or deceit;

(2) In the event that a pharmacist is determined by a court of competent jurisdiction to be mentally incompetent, the pharmacist shall automatically have his or her license suspended by the commission upon the entry of the judgment, regardless of the pendency of an appeal;

(3) He or she has knowingly violated or permitted the violation of any provision of any state or federal law, rule, or regulation governing the possession, use, distribution, or dispensing of drugs, including, but not limited to, the violation of any provision of this chapter, Title 69 RCW, or rule or regulation of the commission;

(4) He or she has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the practice of pharmacy, except a pharmacy intern or pharmacy assistant acting as authorized in this chapter or chapter 18.64A RCW in the presence of and under the immediate supervision of a licensed pharmacist;

(5) He or she has compounded, dispensed, or caused the compounding or dispensing of any drug or device which contains more or less than the equivalent quantity of ingredient or ingredients specified by the person who prescribed such drug or device: PROVIDED, HOWEVER, That nothing herein shall be construed to prevent the pharmacist from exercising professional judgment in the preparation or providing of such drugs or devices. [2013 c 19 § 13; 1993 c 367 § 13; 1985 c 7 § 60; 1984 c 153 § 12; 1979 c 90 § 13; 1963 c 38 § 10; 1909 c 213 § 10; RRS § 10143. Formerly RCW 18.64.160 through 18.64.190.]

18.64.163 Uniform Disciplinary Act. The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses of pharmacists and pharmacy interns, and the discipline of licensed pharmacists and pharmacy interns under this chapter. [1993 c 367 § 14.]

18.64.165 Refusal, suspension, and revocation of other licenses. The commission shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, peddler, poison distributor, health care entity, or precursor chemical distributor upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) Except as provided in RCW 9.97.020, the licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the commission or has been convicted of a felony. [2016 c 81 § 10; 2013 c 19 § 14; 1995 c 319 § 5. Prior: 1989 1st ex.s. c 9 § 404; 1989 c 352 § 4; 1979 c 90 § 14; 1963 c 38 § 15.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

Additional notes found at www.leg.wa.gov

18.64.200 Refusal, suspension, and revocation of other licenses—Appeal procedure. In any case of the refusal, suspension or revocation of a license by the commission under the provisions of this chapter, appeal may be taken in accordance with the administrative procedure act. [2013 c 19 § 15; 1963 c 38 § 11; 1909 c 213 § 11; RRS § 10144. Formerly RCW 18.64.200 through 18.64.240.]

Administrative Procedure Act: Title 34 RCW.

18.64.205 Retired active license status. The commission may adopt rules pursuant to this section authorizing a retired active license status. An individual licensed pursuant to this chapter, who is practicing only in emergent or intermittent circumstances as defined by rule established by the commission, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250 and 43.70.280. Such a license shall meet the continuing education requirements, if any, established by the commission for renewals, and is subject to the provisions of the uniform disciplinary act, chapter 18.130 RCW. Individuals who have entered into retired status agreements with the disciplinary authority in any jurisdiction shall not qualify for a retired active license under this section. [2013 c 19 § 16; 1996 c 191 § 48; 1991 c 229 § 2.]

18.64.245 Prescription records—Digital or electronic form—Penalty. (1) Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than two years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All recordkeeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only. The record of prescriptions shall be open for inspection by the commission or any officer of the law, who is authorized to enforce this chapter or chapter 69.41 or 69.50 RCW.

(2) When a pharmacy receives a prescription in digital or electronic format through facsimile equipment transmitting an exact visual image of the prescription, or through electronic communication of prescription information, the digital or electronic record of every such prescription dispensed at the pharmacy constitutes a suitable record of prescriptions, provided that the original or direct copy of the prescription is electronically or digitally numbered or referenced, dated, and filed in a form that permits the information required to be readily retrievable.

(3) A person violating this section is guilty of a misdemeanor. [2016 c 148 § 17; 2013 c 19 § 17; 2003 c 53 § 135. Prior: 1989 1st ex.s. c 9 § 402; 1989 c 352 § 2; 1979 c 90 § 15; 1939 c 28 § 1; RRS § 6154-1. Formerly RCW 18.67.090.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

(2016 Ed.)

18.64.246 Prescriptions—Labels—Cover or cap to meet safety standards—Penalty. (1) To every box, bottle, jar, tube or other container of a prescription which is dispensed there shall be fixed a label bearing the name and address of the dispensing pharmacy, the prescription number, the name of the prescriber, the prescriber's directions, the name and strength of the medication, the name of the patient, the date, and the expiration date. The security of the cover or cap on every bottle or jar shall meet safety standards adopted by the commission. At the prescriber's request, the name and strength of the medication need not be shown. If the prescription is for a combination medication product, the generic names of the medications combined or the trade name used by the manufacturer or distributor for the product shall be noted on the label. The identification of the licensed pharmacist responsible for each dispensing of medication must either be recorded in the pharmacy's record system or on the prescription label. This section shall not apply to the dispensing of medications to in-patients in hospitals.

(2) A person violating this section is guilty of a misdemeanor. [2013 c 19 § 18; 2003 c 53 § 136; 2002 c 96 § 1; 1984 c 153 § 13; 1971 ex.s. c 99 § 1; 1939 c 28 § 2; RRS § 6154-2. Formerly RCW 18.67.080.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.64.250 Unlawful practices—Penalty for violations—Exceptions. (1) Any person not a licensed pharmacist and not having continuously and regularly in his employ a duly licensed pharmacist within the full meaning of this chapter, who shall practice pharmacy; or

(2) Any person who shall permit the compounding and dispensing of prescriptions, or vending of drugs, medicines, or poisons in his or her store or place of business, except under the supervision of a licensed pharmacist; or

(3) Any licensed pharmacist or shopkeeper licensed under this chapter, who while continuing in business, shall fail or neglect to procure his or her renewal of license; or

(4) Any person who shall wilfully make any false representations to procure a license for himself or herself or for any other person; or

(5) Any person who shall violate any of the provisions of this chapter wilfully and knowingly; or

(6) Any person who shall take or use or exhibit in or upon any place of business, or advertise in a newspaper, telephone directory, or other directory, or by electronic media, or in any other manner, the title of pharmacist, pharmacy intern, pharmacy assistant, druggist, pharmacy, drug store, medicine store, drug department, drugs, drug sundries, or any title or name of like description or import, or display or permit to be displayed upon said place of business the characteristic pharmacy symbols, bottles or globes, either colored or filled with colored liquids, without having continuously and regularly employed in his or her shop, store, or place of business, during business hours of the pharmacy, a pharmacist duly licensed under this chapter;

shall be guilty of a misdemeanor, and each and every day that such prohibited practice continues shall be deemed a separate offense. [1979 c 90 § 16; 1963 c 38 § 12; 1935 c 98 § 6; 1909 c 213 § 7; 1899 c 121 § 13; RRS § 10138. Formerly RCW 18.64.250, 18.64.010, 18.64.030, 18.67.030, 18.67.040 and

18.67.130. FORMER PART OF SECTION: 1909 c 213 § 13; RRS § 10146, now codified as RCW 18.64.280.]

18.64.255 Authorized practices. Nothing in this chapter shall operate in any manner:

(1) To restrict the scope of authorized practice of any practitioner other than a pharmacist, duly licensed as such under the laws of this state. However, a health care entity shall comply with all state and federal laws and rules relating to the dispensing of drugs and the practice of pharmacy; or

(2) In the absence of the pharmacist from the hospital pharmacy, to prohibit a registered nurse designated by the hospital and the responsible pharmacist from obtaining from the hospital pharmacy such drugs as are needed in an emergency: PROVIDED, That proper record is kept of such emergency, including the date, time, name of prescriber, the name of the nurse obtaining the drugs, and a list of what drugs and quantities of same were obtained; or

(3) To prevent shopkeepers, itinerant vendors, peddlers, or salespersons from dealing in and selling nonprescription drugs, if such drugs are sold in the original packages of the manufacturer, or in packages put up by a licensed pharmacist in the manner provided by the commission, if such shopkeeper, itinerant vendor, salesperson, or peddler shall have obtained a registration. [2013 c 19 § 19; 2011 c 336 § 495; 1995 c 319 § 7; 1984 c 153 § 14; 1981 c 147 § 3; 1979 c 90 § 19.]

18.64.257 Prescription of legend drugs by dialysis programs. This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the commission pursuant to rule. [2013 c 19 § 20; 1987 c 41 § 1.]

Application of legend drug statutes to dialysis programs: RCW 69.41.032.

18.64.270 Responsibility for drug purity—Compounding—Adulteration—Penalty. (1) Every proprietor of a wholesale or retail drug store shall be held responsible for the quality of all drugs, chemicals or medicines sold or dispensed by him or her except those sold in original packages of the manufacturer and except those articles or preparations known as patent or proprietary medicines.

(2) Any medicinal products that are compounded for patient administration or distribution to a licensed practitioner for patient use or administration shall, at a minimum, meet the standards of the official United States pharmacopeia as it applies to nonsterile products and sterile administered products.

(3) Any person who shall knowingly, willfully or fraudulently falsify or adulterate any drug or medicinal substance or preparation authorized or recognized by an official compendium or used or intended to be used in medical practice, or shall willfully, knowingly or fraudulently offer for sale, sell or cause the same to be sold for medicinal purposes, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not less than seventy-five nor more than one hundred and fifty dollars or by imprison-

ment in the county jail for a period of not less than one month nor more than three months, and any person convicted a third time for violation of this section may suffer both fine and imprisonment. In any case he or she shall forfeit to the state of Washington all drugs or preparations so falsified or adulterated. [2013 c 146 § 2; 2003 c 53 § 137; 1963 c 38 § 13; 1899 c 121 § 14; RRS § 10139. Prior: 1891 c 153 § 15. Formerly RCW 18.67.100 and 18.67.120.]

Effective date—2013 c 146: See note following RCW 18.64.011.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.64.275 Limitations on liability for dispensing of prescription. (1) A pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer pursuant to a prescription issued by a licensed practitioner is not liable to a person who was injured through the use of the product, based on a claim of the following:

(a) Strict liability in tort; or

(b) Implied warranty provisions under the uniform commercial code Title 62A RCW.

(2) The limitation on pharmacist's liability as provided in subsection (1) of this section shall only apply if the pharmacist complies with recordkeeping requirements pursuant to chapters 18.64, 69.41, and 69.50 RCW, and related administrative rules.

(3) A pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer issued by a licensed practitioner is liable to the claimant only if the claimant's harm was proximately caused by (a) the negligence of the pharmacist; (b) breach of an express warranty made by the pharmacist; or (c) the intentional misrepresentation of facts about the product by the pharmacist or the intentional concealment of information about the product by the pharmacist. A pharmacist shall not be liable for the product manufacturer's liability except as provided in RCW 7.72.040. [1991 c 189 § 1.]

18.64.280 General penalty. Any person who shall violate any of the provisions of chapter 18.64 RCW and for which a penalty is not provided shall be deemed guilty of a gross misdemeanor. [1963 c 38 § 14; 1909 c 213 § 13; RRS § 10146. Formerly RCW 18.64.250, part.]

18.64.310 Department of health—Powers and duties. The department shall:

(1) Establish reasonable license and examination fees and fees for services to other agencies in accordance with RCW 43.70.250 and 43.70.280. In cases where there are unanticipated demands for services, the department may request payment for services directly from the agencies for whom the services are performed, to the extent that revenues or other funds are available. Drug-related investigations regarding licensed health care practitioners shall be funded by an appropriation to the department from the health professions account. The payment may be made on either an advance or a reimbursable basis as approved by the director of financial management;

(2) Employ, with confirmation by the commission, an executive officer, who shall be exempt from the provisions of chapter 41.06 RCW and who shall be a pharmacist licensed

in Washington, and employ inspectors, investigators, chemists, and other persons as necessary to assist it for any purpose which it may deem necessary;

(3) Investigate and prosecute, at the direction of the commission, including use of subpoena powers, violations of law or regulations under its jurisdiction or the jurisdiction of the commission;

(4) Make, at the direction of the commission, inspections and investigations of pharmacies and other places, including dispensing machines, in which drugs or devices are stored, held, compounded, dispensed, sold, or administered to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs or devices which are adulterated, misbranded, stored, held, dispensed, distributed, administered, or compounded in violation of or contrary to law. The written operating agreement between the department and the commission, as required by RCW 43.70.240 shall include provisions for the department to involve the commission in carrying out its duties required by this section. [2013 c 19 § 21; 1996 c 191 § 49; 1989 1st ex.s. c 9 § 410.]

Additional notes found at www.leg.wa.gov

18.64.350 Nonresident pharmacies—Findings. (1) The legislature finds and declares that the practice of pharmacy is a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and drug-related therapy.

(2) The legislature recognizes that with the proliferation of alternate methods of health delivery, there has arisen among third-party payors and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail-order pharmacies located outside the state of Washington.

(3) As a result, the legislature finds and declares that to continue to protect the Washington consumer-patient, all out-of-state pharmacies, including those located in Canada, that provide services to Washington residents shall be licensed by the department of health, disclose specific information about their services, and provide pharmacy services at a high level of protection and competence. [2005 c 275 § 2; 1991 c 87 § 1.]

Finding—Intent—2005 c 275: "The legislature finds that as consumers' prescription drug costs continue to rise, people across the state of Washington are exercising the option to purchase prescription drugs from Canada for their personal use. The state has a strong interest in the safety of drugs purchased through this mechanism. To address this interest, the legislature intends to authorize the *state board of pharmacy to regulate nonresident Canadian pharmacies." [2005 c 275 § 1.]

***Reviser's note:** Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

Additional notes found at www.leg.wa.gov

18.64.360 Nonresident pharmacies—Definition—Requirements—Exemption—Reciprocity with Canadian pharmacies. (1) For the purposes of this chapter any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state is a nonresident pharmacy, and shall be licensed by the department of health, and shall disclose to the department the following:

(2016 Ed.)

(a) The location, names, and titles of all owners including corporate officers and all pharmacists employed by the pharmacy who are dispensing controlled substances, legend drugs, or devices to residents of this state. A report containing this information shall be made on an annual basis and within ninety days after a change of location, corporate officer, or pharmacist;

(b) Proof of compliance with all lawful directions and requests for information from the regulatory or licensing agency of the state or Canadian province in which it is licensed as well as with all requests for information made by the department of health under this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state or Canadian province in which it is located. As a prerequisite to be licensed by the department of health, the nonresident pharmacy shall submit a copy of the most recent inspection report issued by the regulatory licensing agency of the state or Canadian province in which it is located;

(c) Proof that it maintains its records of controlled substances, legend drugs, or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(2) Any pharmacy subject to this section shall, during its regular hours of operation, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on the label affixed to each container of drugs dispensed to patients in this state.

(3) A pharmacy subject to this section shall comply with commission rules regarding the maintenance and use of patient medication record systems.

(4) A pharmacy subject to this section shall comply with commission rules regarding the provision of drug information to the patient. Drug information may be contained in written form setting forth directions for use and any additional information necessary to assure the proper utilization of the medication prescribed. A label bearing the expiration date of the prescription must be affixed to each box, bottle, jar, tube, or other container of a prescription that is dispensed in this state by a pharmacy subject to this section.

(5) A pharmacy subject to this section shall not dispense medication in a quantity greater than authorized by the prescriber.

(6) The license fee specified by the secretary, in accordance with the provisions of RCW 43.70.250, shall not exceed the fee charged to a pharmacy located in this state.

(7) The license requirements of this section apply to nonresident pharmacies that ship, mail, or deliver controlled substances, legend drugs, and devices into this state only under a prescription. The commission may grant an exemption from licensing under this section upon application by an out-of-state pharmacy that restricts its dispensing activity in Washington to isolated transactions.

(8) Each nonresident pharmacy that ships, mails, or delivers legend drugs or devices into this state shall designate a resident agent in Washington for service of process. The designation of such an agent does not indicate that the non-

resident pharmacy is a resident of Washington for tax purposes.

(9) The commission shall attempt to develop a reciprocal licensing agreement for licensure of nonresident pharmacies with Health Canada or an applicable Canadian province. If the commission is unable to develop such an agreement, the commission shall develop a process to license participating Canadian nonresident pharmacies through on-site inspection and certification. [2013 c 19 § 22; 2005 c 275 § 3; 1996 c 109 § 1; 1991 c 87 § 2.]

Finding—Intent—2005 c 275: See note following RCW 18.64.350.

Additional notes found at www.leg.wa.gov

18.64.370 Nonresident pharmacies—License required—Application—Renewal. (1) A nonresident pharmacy that has not obtained a license from the department of health shall not conduct the business of selling or distributing drugs in this state.

(2) Applications for a nonresident pharmacy license under RCW 18.64.350 through 18.64.400 shall be made on a form furnished by the department. The department may require such information as it deems is reasonably necessary to carry out the purpose of RCW 18.64.350 through 18.64.400.

(3) The nonresident pharmacy license shall be renewed annually on a date to be established by the department by rule. In the event the license fee remains unpaid, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee. [1991 c 87 § 3.]

Additional notes found at www.leg.wa.gov

18.64.380 Nonresident pharmacies—Information required—Inspection. A nonresident pharmacy shall:

(1) Submit to the department, upon request, information acceptable to the secretary concerning controlled substances shipped, mailed, or delivered to a Washington resident.

(2) Submit to on-site inspection by the department of the nonresident pharmacy's prescription records if the information in subsection (1) of this section is not provided to the department upon request. [1991 c 87 § 4.]

Additional notes found at www.leg.wa.gov

18.64.390 Nonresident pharmacies—Violations—Penalties. (1) The commission may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for failure to comply with any requirement of RCW 18.64.350 through 18.64.400.

(2) The commission may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for conduct that causes serious bodily or psychological injury to a resident of this state if the secretary has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and that regulatory or licensing agency fails to initiate an investigation within forty-five days of the referral under this subsection or fails to make a determination on the referral. [2013 c 19 § 23; 1991 c 87 § 5.]

Additional notes found at www.leg.wa.gov

18.64.400 Nonresident pharmacies—Definition—Advertising. For the purposes of this chapter, a nonresident pharmacy is defined as any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state. It is unlawful for:

(1) Any nonresident pharmacy that is not licensed under RCW 18.64.350 through 18.64.400 to advertise its service in this state; or

(2) Any resident of this state to advertise the pharmaceutical services of a nonresident pharmacy with the knowledge that the nonresident pharmacy is not licensed by the department and that the advertisement will or is likely to induce persons within this state to use the nonresident pharmacy to fill prescriptions. [1991 c 87 § 6.]

Additional notes found at www.leg.wa.gov

18.64.410 Nonresident pharmacies—Rules. The commission may adopt rules to implement the provisions of RCW 18.64.350 through 18.64.400 and 18.64.420. [2013 c 19 § 24; 1991 c 87 § 11.]

Additional notes found at www.leg.wa.gov

18.64.420 Nonresident pharmacies—Information confidential—Exceptions. All records, reports, and information obtained by the department from or on behalf of an entity licensed under chapter 48.20, 48.21, 48.44, or 48.46 RCW shall be confidential and exempt from inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigation or the proceedings of the commission or the department so long as the commission and the department comply with the provisions of chapter 42.56 RCW. Nothing in this section or in chapter 42.56 RCW shall restrict the commission or the department from complying with any mandatory reporting requirements that exist or may exist under federal law, nor shall the commission or the department be restricted from providing to any person the name of any nonresident pharmacy that is or has been licensed or disciplined under RCW 18.64.350 through 18.64.400. [2013 c 19 § 25; 2005 c 274 § 226; 1991 c 87 § 12.]

Additional notes found at www.leg.wa.gov

18.64.430 Cost disclosure to health care providers. The registered or licensed pharmacist under this chapter shall establish and maintain a procedure for disclosing to physicians and other health care providers with prescriptive authority information detailed by prescriber, of the cost and dispensation of all prescriptive medications prescribed by him or her for his or her patients on request. These charges should be made available on at least a quarterly basis for all requested patients and should include medication, dosage, number dispensed, and the cost of the prescription. Pharmacies may provide this information in a summary form for each prescribing physician for all patients rather than as individually itemized reports. All efforts should be made to utilize the existing computerized records and software to provide this information in the least costly format. [2000 c 171 § 22; 1993 c 492 § 267.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Additional notes found at www.leg.wa.gov

18.64.450 Health care entity—License requirements for legend drugs and controlled substances—Exception.

(1) In order for a health care entity to purchase, administer, dispense, and deliver legend drugs, the health care entity must be licensed by the department.

(2) In order for a health care entity to purchase, administer, dispense, and deliver controlled substances, the health care entity must annually obtain a license from the department in accordance with the commission's rules.

(3) The receipt, administration, dispensing, and delivery of legend drugs or controlled substances by a health care entity must be performed under the supervision or at the direction of a pharmacist.

(4) A health care entity may only administer, dispense, or deliver legend drugs and controlled substances to patients who receive care within the health care entity and in compliance with rules of the commission. Nothing in this subsection shall prohibit a practitioner, in carrying out his or her licensed responsibilities within a health care entity, from dispensing or delivering to a patient of the health care entity drugs for that patient's personal use in an amount not to exceed seventy-two hours of usage. [2013 c 19 § 26; 1995 c 319 § 3.]

18.64.460 Health care entity—License fee—Requirements—Penalty. (1) The owner of a health care entity shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to purchase legend drugs or controlled substances at the location specified for the period ending on a date to be determined by the secretary. A declaration of ownership and location filed with the department under this section shall be deemed presumptive evidence of ownership of the health care entity.

(2) The owner shall immediately notify the department of any change of location or ownership in which case a new application and fee shall be submitted.

(3) It shall be the duty of the owner to keep the license of location or the renewal license properly exhibited in the health care entity.

(4) Failure to comply with this section is a misdemeanor and each day that the failure continues is a separate offense.

(5) In the event that a license fee remains unpaid after the date due, no renewal or new license may be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee. [1995 c 319 § 4.]

18.64.470 Health care entity—Records. Every proprietor or manager of a health care entity shall keep readily available a suitable record of drugs, which shall preserve for a period of not less than two years the record of every drug used at such health care entity. The record shall be maintained either separately from all other records of the health care entity or in such form that the information required is readily retrievable from ordinary business records of the health care entity. All recordkeeping requirements for controlled substances must be complied with. Such record of drugs shall be for confidential use in the health care entity,

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only. The record of drugs shall be open for inspection by the commission, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW. [2013 c 19 § 27; 1995 c 319 § 6.]

18.64.480 Waiver request to allow importation of prescription drugs from Canada. (1) By September 1, 2005, the commission shall, in consultation with the department and the health care authority, submit a waiver request to the federal food and drug administration that authorizes the importation of prescription drugs from Canada.

(2) Upon approval of the federal waiver allowing for the importation of prescription drugs from Canada, the commission, in consultation with the department and the health care authority, shall license Canadian pharmacies that provide services to Washington residents under RCW 18.64.350 and 18.64.360. [2013 c 19 § 28; 2005 c 275 § 4.]

Finding—Intent—2005 c 275: See note following RCW 18.64.350.

18.64.490 Waiver request to authorize the state to license Canadian, United Kingdom, Irish, and other non-domestic prescription drug wholesalers under RCW 18.64.046—Implementation—Rules.

(1) By September 1, 2005, the commission shall, in consultation with the department and the health care authority, submit a waiver request to the federal food and drug administration that will authorize the state of Washington to license Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers under RCW 18.64.046, thereby providing retail pharmacies licensed in Washington state the opportunity to purchase prescription drugs from approved wholesalers and pass those savings on to consumers. The waiver shall provide that:

(a) Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers meet the requirements of RCW 18.64.046 and any rules adopted by the commission to implement those requirements;

(b) The commission must ensure the integrity of the prescription drug products being distributed by:

(i) Requiring that prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers originate only from approved manufacturing locations;

(ii) Routinely testing prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers for safety;

(iii) Establishing safe labeling, tracking, and shipping procedures for prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers; and

(iv) Closely monitoring compliance with RCW 18.64.046 and any rules adopted to implement the waiver;

(c) The prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers must be limited to those that are not temperature sensitive or infused and for which potential savings to consumers can be demonstrated and those available through purchase by individuals only at licensed retail pharmacies;

(d) To ensure that the program benefits those consumers without insurance coverage for prescription drugs who are most in need of price relief, prescription drug purchases from pharmacies under the waiver will be limited to those not eligible for reimbursement by third party insurance coverage,

whether public or private, for the particular drug being purchased; and

(e) Savings associated with purchasing prescription drugs from Canadian, United Kingdom, Irish, and other non-domestic wholesalers will be passed on to consumers.

(2) Upon approval of the federal waiver submitted in accordance with subsection (1) of this section, the commission, in consultation with the department and the health care authority, shall submit a detailed implementation plan to the governor and appropriate committees of the legislature that details the mechanisms that the commission will use to implement each component of the waiver under subsection (1) of this section.

(3) The commission shall adopt rules as necessary to implement chapter 293, Laws of 2005. [2013 c 19 § 29; 2005 c 293 § 2.]

Finding—Intent—2005 c 293: "The legislature finds that as consumers' prescription drug costs continue to rise, people across the state of Washington are seeking opportunities to purchase lower cost prescription drugs from Canada, the United Kingdom, Ireland, and other countries for their personal use. The state has a strong interest in promoting the safe use of prescription drugs by consumers in Washington state. To address this interest, the legislature intends to seek authorization from the federal government to license Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers, thereby providing licensed retail pharmacies the opportunity to purchase prescription drugs from approved wholesalers and pass those savings on to consumers, and providing consumers the opportunity to purchase prescription drugs from a trusted community pharmacist who is aware of all of their prescription drug needs." [2005 c 293 § 1.]

Additional notes found at www.leg.wa.gov

18.64.500 Tamper-resistant prescription pads or paper. (1) Every prescription written in this state by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the commission.

(2) A pharmacist may not fill a written prescription from a licensed practitioner unless it is written on an approved tamper-resistant prescription pad or paper, except that a pharmacist may provide emergency supplies in accordance with the commission and other insurance contract requirements.

(3) If a hard copy of an electronic prescription is given directly to the patient, the manually signed hard copy prescription must be on approved tamper-resistant paper that meets the requirements of this section.

(4) For the purposes of this section, "tamper-resistant prescription pads or paper" means a prescription pad or paper that has been approved by the commission for use and contains the following characteristics:

(a) One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

(b) One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription form by the practitioner; and

(c) One or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

(5) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized use of prescriptions.

(6) All vendors must have their tamper-resistant prescription pads or paper approved by the commission prior to the marketing or sale of pads or paper in Washington state.

(7) The commission shall create a seal of approval that confirms that a pad or paper contains all three industry-recog-

nized characteristics required by this section. The seal must be affixed to all prescription pads or paper used in this state.

(8) The commission may adopt rules necessary for the administration of chapter 328, Laws of 2009.

(9) The tamper-resistant prescription pad or paper requirements in this section shall not apply to:

(a) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or electronic means; or

(b) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents of a long-term care facility, patients of a hospice program, inpatients or residents of a mental health facility, or individuals incarcerated in a local, state, or federal correction facility, when the health care practitioner authorized to write prescriptions, or his or her authorized agent, writes the order into the patient's medical or clinical record, the order is given directly to the pharmacy, and the patient never has the opportunity to handle the written order.

(10) All acts related to the prescribing, dispensing, and records maintenance of all prescriptions shall be in compliance with applicable federal and state laws, rules, and regulations. [2016 c 148 § 18; 2013 c 19 § 30; 2009 c 328 § 1.]

18.64.510 Limitation on authority to regulate or establish standards regarding a jail. Nothing in this chapter or in any provision of law shall be interpreted to invest the commission with the authority to regulate or establish standards regarding a jail as defined in RCW 70.48.020 that does not operate, in whole or in part, a pharmacy or a correctional pharmacy. This section does not limit the commission's authority to regulate a pharmacist that has entered into an agreement with a jail for the provision of pharmaceutical services. [2013 c 19 § 31; 2009 c 411 § 2.]

18.64.520 Dispensing of drug other than controlled substance—Supply limit. (1) A pharmacist may dispense not more than a ninety-day supply of a drug other than a controlled substance pursuant to a valid prescription that specifies an initial quantity of less than a ninety-day supply followed by periodic refills of that amount if all of the following requirements are satisfied:

(a) The patient has completed an initial thirty-day supply of the drug. However, if the prescription continues the same medication as previously dispensed in a ninety-day supply, the initial thirty-day supply under this subsection (1) is not required;

(b) The total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the prescription including refills;

(c) The prescriber has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary; and

(d) The pharmacist is exercising his or her professional judgment.

(2) In no case may a pharmacist dispense a greater supply of a drug pursuant to this section if the prescriber personally indicates, either orally or in their own handwriting, "no change to quantity," or words of similar meaning. Nothing in this section prohibits a prescriber from checking a box on a prescription marked "no change to quantity," provided that the prescriber personally initials the box or checkmark.

(3) A pharmacist dispensing an increased supply of a drug pursuant to this section shall notify the prescriber of the increase in the quantity of dosage units dispensed.

(4) Nothing in this section may be construed to require a health benefit plan, health carrier, workers' compensation insurance plan, pharmacy benefit manager, or any other person or entity including, but not limited to, a state program or state employer, to provide coverage in a manner inconsistent with the beneficiary's or enrollee's plan benefit. [2013 c 262 § 1.]

18.64.530 Topical ophthalmic products—Early refills authorized. A pharmacist is authorized, without consulting a physician or obtaining a new prescription or refill from a physician, to provide for one early refill of a prescription for topical ophthalmic products if all of the following criteria are met:

(1) The refill is requested by a patient at or after seventy percent of the predicted days of use of:

(a) The date the original prescription was dispensed to the patient; or

(b) The date that the last refill of the prescription was dispensed to the patient;

(2) The prescriber indicates on the original prescription that a specific number of refills will be needed; and

(3) The refill does not exceed the number of refills that the prescriber indicated under subsection (2) of this section. [2015 c 85 § 1.]

18.64.540 Provision of drugs to ambulance or aid services associated with providing emergency medical services to patients. A pharmacy that is licensed under this chapter and operated by a hospital that is licensed under chapter 70.41 RCW may provide drugs to ambulance or aid services that are licensed under RCW 18.73.130 for use associated with providing emergency medical services to patients if the following conditions are met:

(1) The hospital is located in the same or an adjacent county to the county in which the ambulance or aid service operates;

(2) A medical program director of an ambulance or aid service has requested drugs from the hospital per agreed protocol. A medical program director may only request drugs that:

(a) Are relevant to the level of service provided by the ambulance or aid service and the training of its emergency medical personnel; and

(b) Are approved as part of the ambulance or aid service prehospital patient care protocols for use by emergency medical personnel in the county in which the ambulance or aid service is located; and

(3) The provision of the drugs by the pharmacy is not contingent upon arrangements for the transport of patients to the hospital that operates the pharmacy for reasons other than the consideration of patients' medical needs and any patient care procedures. [2015 c 255 § 1.]

18.64.550 Chart order as prescription—Long-term care facilities and hospice programs. (1) A chart order must be considered a prescription if it contains:

(a) The full name of the patient;

(b) The date of issuance;

(c) The name, strength, and dosage form of the drug prescribed;

(d) Directions for use; and

(e) An authorized signature:

(i) For written orders, the order must contain the prescribing practitioner's signature or the signature of the practitioner's authorized agent, including the name of the prescribing practitioner; or

(ii) For electronic or digital orders, the order must contain the prescribing practitioner's electronic or digital signature, or the electronic or digital signature of the practitioner's authorized agent, including the name of the prescribing practitioner.

(2) A licensed nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this chapter, without need for a written agency agreement, to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature; or to communicate a prescription to a pharmacy whether telephonically, via facsimile, or electronically. The communication of a prescription to a dispenser by the prescriber's agent has the same force and effect as if communicated directly by the authorized practitioner.

(3) Nothing in this chapter prevents an authorized credentialed employee of a long-term care facility from transmitting a chart order pursuant to RCW 74.42.230, or transmitting a prescription on behalf of a resident to the extent otherwise authorized by law. [2016 c 148 § 2.]

18.64.560 Nursing homes and hospice programs—Emergency drug kits—Supplemental dose kits. (1) A pharmacy or pharmacist may provide a limited quantity of drugs to a nursing home or hospice program without a prescription for emergency administration by authorized personnel of the facility or program pursuant to a valid prescription.

The drugs so provided must be limited to those required to meet the immediate therapeutic needs of residents or patients and may not be available from another authorized source in sufficient time to prevent risk of harm by delay resulting from obtaining drugs from another source. Emergency kits must be secured in a locked room, container, or device to prevent unauthorized access and to ensure the proper environment for preservation of the drugs.

(2) In addition to or in connection with the emergency kit authorized under subsection (1) of this section, a nursing home that employs a unit dose drug distribution system may maintain a supplemental dose kit for supplemental nonemergency drug therapy. Supplemental dose kits must be secured in a locked room, container, or device to prevent unauthorized access, and to ensure the proper environment for preservation of the drugs. Administration of drugs from a supplemental dose kit must be under a valid prescription or chart order.

(3) The types and quantity of drugs appropriate to serve the resident or patient population of a nursing home or hospice program using an emergency kit or supplemental dose kit and procedures for the proper storage and security of drugs must be determined by a pharmaceutical services committee that includes a pharmacist licensed under this chapter,

a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW, and appropriate clinical or administrative personnel of the nursing home or hospice program as set forth in rules adopted by the pharmacy quality assurance commission.

(4) A registered nurse or licensed practical nurse operating under appropriate direction and supervision by a pharmacist may restock an emergency kit or supplemental dose kit to provide for safe and timely patient access. [2016 c 148 § 3.]

18.64.570 Long-term care facilities and hospice programs—Legend drug resupply—Shared pharmacy services—Unused drugs. (1) A pharmacy may resupply a legend drug to a patient at a long-term care facility or hospice program pursuant to a valid chart order that is signed by the prescribing practitioner, is not time limited, and has not been discontinued.

(2) A pharmacy may outsource shared pharmacy services for a long-term care facility or hospice program to another pharmacy if the outsourcing pharmacy:

(a) Obtains approval from the long-term care facility or hospice program to outsource shared pharmacy services for the facility's or program's residents or patients; and

(b) Provides a copy of the prescription or order to the pharmacy providing the shared pharmacy services.

(3) Shared pharmacy services may be used for, but are not limited to, the purpose of ensuring that drugs or devices are attainable to meet the immediate needs of residents of the long-term care facility or hospice program, or when the outsourcing pharmacy cannot provide services on an ongoing basis. Where a pharmacy uses shared pharmacy services to have a second pharmacy provide a first dose or partial fill of a prescription or drug order to meet a patient's or resident's immediate needs, the second supplying pharmacy may dispense the first dose or partially filled prescription on a satellite basis without the outsourcing pharmacy being required to fully transfer the prescription to the supplying pharmacy. The supplying pharmacy must retain a copy of the prescription or order on file, a copy of the dispensing record or fill, and must notify the outsourcing pharmacy of the service and quantity provided.

(4) A pharmacy may repackage and dispense unused drugs returned by a long-term care facility or hospice program to the pharmacy in per-use, blister packaging, whether in unit dose or modified unit dose form, except as prohibited by federal law. The commission must adopt rules providing for the safe and efficient repackaging, reuse, and disposal of unused drugs returned to a pharmacy from a long-term care facility or hospice program. In adopting rules, the commission must take into consideration the acceptance and dispensing requirements of RCW 69.70.050 (1), (2), and (5). [2016 c 148 § 4.]

18.64.580 Long-term care pharmacies—Ratio of pharmacists to pharmacy technicians—Standards. The commission must adopt reasonable, task-based standards regarding the ratio of pharmacists to pharmacy technicians in a closed door long-term care pharmacy. For the purpose of such standards, a pharmacy technician licensed under chapter

18.64A RCW may not be considered to be practicing as a pharmacy technician while performing administrative tasks not associated with immediate dispensing of drugs that may lawfully be performed by a registered pharmacy assistant. Administrative tasks not associated with immediate dispensing of drugs include but are not necessarily limited to medical records maintenance, billing, prepackaging unit dose drugs, inventory control, delivery, and processing returned drugs. [2016 c 148 § 5.]

18.64.590 Long-term care facilities and hospice programs—Commission authority. The commission may adopt rules implementing RCW 18.64.550 through 18.64.580. [2016 c 148 § 6.]

18.64.920 Repealer—1935 c 98. All acts and parts of acts in conflict herewith are hereby repealed. [1935 c 98 § 11.]

Chapter 18.64A RCW PHARMACY ASSISTANTS

Sections

- 18.64A.010 Definitions.
- 18.64A.020 Rules—Qualifications and training programs.
- 18.64A.025 Qualifications—Military training and experience.
- 18.64A.030 Rules—Duties of technicians, assistants.
- 18.64A.040 Limitations on practice.
- 18.64A.050 Disciplinary action against certificate or registration—Grounds.
- 18.64A.055 Uniform disciplinary act.
- 18.64A.060 Pharmacy's application for ancillary personnel—Fee—Approval or rejection by commission—Hearing—Appeal.
- 18.64A.070 Persons presently acting as technicians—Pharmacies presently employing those persons.
- 18.64A.080 Pharmacy's or pharmacist's liability, responsibility.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

18.64A.010 Definitions. Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

- (1) "Commission" means the pharmacy quality assurance commission;
- (2) "Department" means the department of health;
- (3) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy;
- (4) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted;
- (5) "Pharmacy ancillary personnel" means pharmacy technicians and pharmacy assistants;
- (6) "Pharmacy technician" means:
 - (a) A person who is enrolled in, or who has satisfactorily completed, a commission-approved training program designed to prepare persons to perform nondiscretionary functions associated with the practice of pharmacy; or
 - (b) A person who is a graduate with a degree in pharmacy or medicine of a foreign school, university, or college recognized by the commission;
- (7) "Pharmacy assistant" means a person registered by the commission to perform limited functions in the pharmacy;
- (8) "Practice of pharmacy" means the definition given in RCW 18.64.011;

(9) "Secretary" means the secretary of health or the secretary's designee. [2013 c 19 § 32; 1997 c 417 § 1; 1989 1st ex.s. c 9 § 422; 1977 ex.s. c 101 § 1.]

Additional notes found at www.leg.wa.gov

18.64A.020 Rules—Qualifications and training programs. (1)(a) The commission shall adopt, in accordance with chapter 34.05 RCW, rules fixing the classification and qualifications and the educational and training requirements for persons who may be employed as pharmacy technicians or who may be enrolled in any pharmacy technician training program. Such rules shall provide that:

(i) Licensed pharmacists shall supervise the training of pharmacy technicians;

(ii) Training programs shall assure the competence of pharmacy technicians to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training; and

(iii) Pharmacy technicians shall complete continuing education requirements established in rule by the commission.

(b) Such rules may include successful completion of examinations for applicants for pharmacy technician certificates. If such examination rules are adopted, the commission shall prepare or determine the nature of, and supervise the grading of the examinations. The commission may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The commission may disapprove or revoke approval of any training program for failure to conform to commission rules. In the case of the disapproval or revocation of approval of a training program by the commission, a hearing shall be conducted in accordance with RCW 18.64.160, and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW. [2013 c 19 § 33; 2011 c 71 § 1; 1997 c 417 § 2; 1995 c 198 § 8; 1977 ex.s. c 101 § 2.]

18.64A.025 Qualifications—Military training and experience. An applicant with military training or experience satisfies the training and experience requirements of this chapter unless the commission determines that the military training or experience is not substantially equivalent to the standards of this state. [2013 c 19 § 34; 2011 c 32 § 5.]

18.64A.030 Rules—Duties of technicians, assistants. The commission shall adopt, in accordance with chapter 34.05 RCW, rules governing the extent to which pharmacy ancillary personnel may perform services associated with the practice of pharmacy. These rules shall provide for the certification of pharmacy technicians and registration of pharmacy assistants by the department at a fee determined by the secretary under RCW 43.70.250:

(1) "Pharmacy technicians" may assist in performing, under the supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy and other such duties and subject to such restrictions as the commission may by rule adopt.

(2) "Pharmacy assistants" may perform, under the supervision of a licensed pharmacist, duties including, but not limited to, typing of prescription labels, filing, refiling, book-keeping, pricing, stocking, delivery, nonprofessional phone

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inquiries, and documentation of third-party reimbursements and other such duties and subject to such restrictions as the commission may by rule adopt. [2016 1st sp.s. c 4 § 1; 2013 c 19 § 35; 1997 c 417 § 3; 1996 c 191 § 50; 1989 1st ex.s. c 9 § 423; 1977 ex.s. c 101 § 3.]

Additional notes found at www.leg.wa.gov

18.64A.040 Limitations on practice. (1) Pharmacy ancillary personnel shall practice pharmacy in this state only after authorization by the commission and only to the extent permitted by the commission in accordance with this chapter.

(2) A pharmacist shall be assisted by pharmacy ancillary personnel in the practice of pharmacy in this state only after authorization by the commission and only to the extent permitted by the commission in accordance with this chapter: PROVIDED, That no pharmacist may supervise more than one pharmacy technician: PROVIDED FURTHER, That in pharmacies operating in connection with facilities licensed pursuant to chapter 70.41, 71.12, 71A.20, or 74.42 RCW, whether or not situated within the said facility which shall be physically separated from any area of a pharmacy where dispensing of prescriptions to the general public occurs, the ratio of pharmacists to pharmacy technicians shall be as follows: In the preparation of medicine or other materials used by patients within the facility, one pharmacist supervising no more than three pharmacy technicians; in the preparation of medicine or other materials dispensed to persons not patients within the facility, one pharmacist supervising not more than one pharmacy technician.

(3) The commission may by rule modify the standard ratios set out in subsection (2) of this section governing the utilization of pharmacy technicians by pharmacies and pharmacists. Should a pharmacy desire to use more pharmacy technicians than the standard ratios, the pharmacy must submit to the commission a pharmacy services plan for approval.

(a) The pharmacy services plan shall include, at a minimum, the following information: Pharmacy design and equipment, information systems, workflow, and quality assurance procedures. In addition, the pharmacy services plan shall demonstrate how it facilitates the provision of pharmaceutical care by the pharmacy.

(b) Prior to approval of a pharmacy services plan, the commission may require additional information to ensure appropriate oversight of pharmacy ancillary personnel.

(c) The commission may give conditional approval for pilot or demonstration projects.

(d) Variance from the approved pharmacy services plan is grounds for disciplinary action under RCW 18.64A.050. [2013 c 19 § 36; 1997 c 417 § 4; 1992 c 40 § 1; 1977 ex.s. c 101 § 4.]

18.64A.050 Disciplinary action against certificate or registration—Grounds. In addition to the grounds under RCW 18.130.170 and 18.130.180, the commission may take disciplinary action against the certificate of any pharmacy technician or the registration of any pharmacy assistant upon proof that:

(1) His or her certificate or registration was procured through fraud, misrepresentation, or deceit;

(2) He or she has been found guilty of any offense in violation of the laws of this state relating to drugs, poisons, cos-

metics, or drug sundries by any court of competent jurisdiction. Nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she has exhibited gross incompetency in the performance of his or her duties;

(4) He or she has willfully or repeatedly violated any of the rules and regulations of the commission or of the department;

(5) He or she has willfully or repeatedly performed duties beyond the scope of his or her certificate or registration in violation of the provisions of this chapter; or

(6) He or she has impersonated a licensed pharmacist. [2016 1st sp.s. c 4 § 2; 2013 c 19 § 37; 1997 c 417 § 5; 1993 c 367 § 15; 1989 1st ex.s. c 9 § 424; 1977 ex.s. c 101 § 5.]

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

Additional notes found at www.leg.wa.gov

18.64A.055 Uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of certificates and registrations and the discipline of certificants and registrants under this chapter. [2016 1st sp.s. c 4 § 3; 1993 c 367 § 16.]

18.64A.060 Pharmacy's application for ancillary personnel—Fee—Approval or rejection by commission—Hearing—Appeal. No pharmacy licensed in this state shall utilize the services of pharmacy ancillary personnel without approval of the commission.

Any pharmacy licensed in this state may apply to the commission for permission to use the services of pharmacy ancillary personnel. The application shall be accompanied by a fee and shall comply with administrative procedures and administrative requirements set pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and extent to which the pharmacy ancillary personnel would be used and supervised, and shall provide other information in such form as the secretary may require.

The commission may approve or reject such applications. In addition, the commission may modify the proposed utilization of pharmacy ancillary personnel and approve the application as modified. Whenever it appears to the commission that pharmacy ancillary personnel are being utilized in a manner inconsistent with the approval granted, the commission may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with chapter 18.64 RCW, as now or hereafter amended, and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW. [2013 c 19 § 38; 1997 c 417 § 6; 1996 c 191 § 51; 1989 1st ex.s. c 9 § 425; 1977 ex.s. c 101 § 6.]

Additional notes found at www.leg.wa.gov

18.64A.070 Persons presently acting as technicians—Pharmacies presently employing those persons. (1) Persons presently assisting a pharmacist by performing the functions of a pharmacy technician may continue to do so under the supervision of a licensed pharmacist: PROVIDED, That within eighteen months after May 28, 1977, such persons shall be in compliance with the provisions of this chapter.

(2) Pharmacies presently employing persons to perform the functions of a pharmacy technician may continue to do so while obtaining commission approval for the use of certified pharmacy technicians: PROVIDED, That within eighteen months after May 28, 1977, such pharmacies shall be in compliance with the provisions of this chapter. [2013 c 19 § 39; 1997 c 417 § 7; 1977 ex.s. c 101 § 7.]

18.64A.080 Pharmacy's or pharmacist's liability, responsibility. A pharmacy or pharmacist which utilizes the services of pharmacy ancillary personnel with approval by the commission, is not aiding and abetting an unlicensed person to practice pharmacy within the meaning of chapter 18.64 RCW: PROVIDED, HOWEVER, That the pharmacy or pharmacist shall retain responsibility for any act performed by pharmacy ancillary personnel in the course of employment. [2013 c 19 § 40; 1997 c 417 § 8; 1977 ex.s. c 101 § 8.]

Chapter 18.71 RCW PHYSICIANS

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18.71.300	Impaired physician program—Definitions.
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18.71.315	Impaired physician account—Created.
18.71.320	Impaired physician program—Procedures.
18.71.330	Impaired physician program—Evaluation of physician.
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18.71.350	Report of malpractice payments by insurers.
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18.71.401	Funds collected—Where deposited.
18.71.420	Allocation of all appropriated funds.
18.71.430	Secretary and commission relationship.
18.71.440	Commission to consider amending rules—Retired active physicians.
18.71.450	Pain management rules—Repeal—Adoption of new rules.
18.71.460	Commission—Information to legislature.
18.71.910	Repeal—1909 c 192.
18.71.920	Repeal—1957 c 60.

Reviser's note: Certain powers and duties of the department of social and health services and the secretary of social and health services transferred to the department of health and the secretary of health. See RCW 43.70.060.

Abortion: Chapter 9.02 RCW.

Accepted medical procedures not to include adjustment by hand of any articulation of the spine: RCW 18.25.005.

Actions against, limitation of: RCW 4.16.350.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

Audits and investigations: RCW 74.09.290.

Crimes relating to pregnancy and childbirth: RCW 9A.32.060.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Homeless person vision services: RCW 43.20A.800 through 43.20A.850.

License of doctors as event physician for contestants in boxing, kickboxing, martial arts, and wrestling events: RCW 67.08.090.

Lien of doctors: Chapter 60.44 RCW.

Rebating by practitioners of healing professions prohibited: Chapter 19.68 RCW.

Regulation of practice of medicine and surgery, sale of drugs and medicines: State Constitution Art. 20 § 2.

18.71.002 Purpose. It is the purpose of the medical quality assurance commission to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state of Washington. [1994 sp.s. c 9 § 301.]

Additional notes found at www.leg.wa.gov

18.71.003 Declaration of purpose. This chapter is passed:

(1) In the exercise of the police power of the state to protect public health, to promote the welfare of the state, and to provide an adequate public agency to act as a disciplinary body for the members of the medical profession licensed to practice medicine and surgery in this state;

(2) Because the health and well-being of the people of this state are of paramount importance;

(3) Because the conduct of members of the medical profession licensed to practice medicine and surgery in this state plays a vital role in preserving the health and well-being of the people of the state; and

(4) Because the agency which now exists to handle disciplinary proceedings for members of the medical profession licensed to practice medicine and surgery in this state is ineffective and very infrequently employed, and consequently there is no effective means of handling such disciplinary proceedings when they are necessary for the protection of the public health. [1955 c 202 § 1. Formerly RCW 18.72.010.]

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18.71.010 Definitions. The following terms used in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Commission" means the Washington state medical quality assurance commission.

(2) "Secretary" means the secretary of health.

(3) "Resident physician" means an individual who has graduated from a school of medicine which meets the requirements set forth in RCW 18.71.055 and is serving a period of postgraduate clinical medical training sponsored by a college or university in this state or by a hospital accredited by this state. For purposes of this chapter, the term shall include individuals designated as intern or medical fellow.

(4) "Emergency medical care" or "emergency medical service" has the same meaning as in chapter 18.73 RCW. [1994 sp.s. c 9 § 302; 1991 c 3 § 158; 1988 c 104 § 1; 1979 c 158 § 51; 1975 1st ex.s. c 171 § 1; 1961 c 284 § 1; 1957 c 60 § 2. Prior: 1947 c 168 § 1, part; 1919 c 134 § 3, part; 1909 c 192 § 6, part; Rem. Supp. 1947 § 10008, part; prior: 1905 c 41 § 1, part; 1901 c 42 § 1, part; 1890 p 115 § 3, part; Code 1881 § 2285, part.]

Uniform Anatomical Gift Act: Chapter 68.64 RCW.

Additional notes found at www.leg.wa.gov

18.71.011 Definition of practice of medicine—Engaging in practice of chiropractic prohibited, when. A person is practicing medicine if he or she does one or more of the following:

(1) Offers or undertakes to diagnose, cure, advise, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, by any means or instrumentality;

(2) Administers or prescribes drugs or medicinal preparations to be used by any other person;

(3) Severs or penetrates the tissues of human beings;

(4) Uses on cards, books, papers, signs, or other written or printed means of giving information to the public, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human disease or conditions the designation "doctor of medicine," "physician," "surgeon," "m.d.," or any combination thereof unless such designation additionally contains the description of another branch of the healing arts for which a person has a license: PROVIDED HOWEVER, That a person licensed under this chapter shall not engage in the practice of chiropractic as defined in RCW 18.25.005. [2011 c 336 § 496; 1975 1st ex.s. c 171 § 15.]

18.71.015 Commission established—Membership—Qualifications—Duties and powers—Compensation—Order of removal—Vacancies. The Washington state medical quality assurance commission is established, consisting of thirteen individuals licensed to practice medicine in the state of Washington under this chapter, two individuals who are licensed as physician assistants under chapter 18.71A RCW, and six individuals who are members of the public. At least two of the public members shall not be from the health care industry. Each congressional district now existing or hereafter created in the state must be represented by at least one physician member of the commission. The terms of office of members of the commission are not affected by changes in congressional district boundaries. Public members

of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

The members of the commission shall be appointed by the governor. Members of the initial commission may be appointed to staggered terms of one to four years, and thereafter all terms of appointment shall be for four years. The governor shall consider such physician and physician assistant members who are recommended for appointment by the appropriate professional associations in the state. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the existing members of the board of medical examiners and medical disciplinary board repealed under section 336, chapter 9, Laws of 1994 sp. sess. be appointed to the commission. No member may serve more than two consecutive full terms. Each member shall hold office until a successor is appointed.

Each member of the commission must be a citizen of the United States, must be an actual resident of this state, and, if a physician, must have been licensed to practice medicine in this state for at least five years.

The commission shall meet as soon as practicable after appointment and elect officers each year. Meetings shall be held at least four times a year and at such place as the commission determines and at such other times and places as the commission deems necessary. A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business.

The affirmative vote of a majority of a quorum of the commission is required to carry any motion or resolution, to adopt any rule, or to pass any measure. The commission may appoint panels consisting of at least three members. A quorum for the transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

Each member of the commission shall be compensated in accordance with RCW 43.03.265 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the commission in accordance with RCW 43.03.050 and 43.03.060. Any such expenses shall be paid from funds appropriated to the department of health.

Whenever the governor is satisfied that a member of a commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

Vacancies in the membership of the commission shall be filled for the unexpired term by appointment by the governor.

The members of the commission are immune from suit in an action, civil or criminal, based on its disciplinary proceedings or other official acts performed in good faith as members of the commission.

Whenever the workload of the commission requires, the commission may request that the secretary appoint pro tempore members of the commission. When serving, pro tem-

pore members of the commission have all of the powers, duties, and immunities, and are entitled to all of the emoluments, including travel expenses, of regularly appointed members of the commission. [2006 c 8 § 103; 1999 c 366 § 4; 1994 sp.s. c 9 § 303. Prior: 1991 c 44 § 1; 1991 c 3 § 159; 1990 c 196 § 11; 1987 c 116 § 1; 1984 c 287 § 44; 1979 c 158 § 52; 1975-'76 2nd ex.s. c 34 § 41; 1975 1st ex.s. c 171 § 2; 1961 c 284 § 2.]

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

Additional notes found at www.leg.wa.gov

18.71.017 Rules by commission—Successor to other boards. (1) The commission may adopt such rules as are not inconsistent with the laws of this state as may be determined necessary or proper to carry out the purposes of this chapter. The commission is the successor in interest of the board of medical examiners and the medical disciplinary board. All contracts, undertakings, agreements, rules, regulations, and policies continue in full force and effect on July 1, 1994, unless otherwise repealed or rejected by this chapter or by the commission.

(2) The commission may adopt rules governing the administration of sedation and anesthesia in the offices of persons licensed under this chapter, including necessary training and equipment. [2007 c 273 § 26; 2000 c 171 § 23; 1994 sp.s. c 9 § 304; 1961 c 284 § 11.]

Effective date—Implementation—2007 c 273: See RCW 70.230.900 and 70.230.901.

Additional notes found at www.leg.wa.gov

18.71.019 Application of Uniform Disciplinary Act—Request for review of revocation order. The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice and the issuance and denial of licenses and discipline of licensees under this chapter. When a panel of the commission revokes a license, the respondent may request review of the revocation order of the panel by the remaining members of the commission not involved in the initial investigation. The respondent's request for review must be filed within twenty days of the effective date of the order revoking the respondent's license. The review shall be scheduled for hearing by the remaining members of the commission not involved in the initial investigation within sixty days. The commission shall adopt rules establishing review procedures. [1996 c 195 § 1; 1994 sp.s. c 9 § 305; 1987 c 150 § 45; 1986 c 259 § 105.]

Additional notes found at www.leg.wa.gov

18.71.0195 Disciplinary reports—Confidentiality—Immunity. (1) The contents of any report filed under RCW 18.130.070 shall be confidential and exempt from public disclosure pursuant to chapter 42.56 RCW, except that it may be reviewed (a) by the licensee involved or his or her counsel or authorized representative who may submit any additional exculpatory or explanatory statements or other information, which statements or other information shall be included in

the file, or (b) by a representative of the commission, or investigator thereof, who has been assigned to review the activities of a licensed physician.

Upon a determination that a report is without merit, the commission's records may be purged of information relating to the report.

(2) Every individual, medical association, medical society, hospital, ambulatory surgical facility, medical service bureau, health insurance carrier or agent, professional liability insurance carrier, professional standards review organization, agency of the federal, state, or local government, or the entity established by RCW 18.71.300 and its officers, agents, and employees are immune from civil liability, whether direct or derivative, for providing information to the commission under RCW 18.130.070, or for which an individual health care provider has immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260. [2007 c 273 § 24; 2005 c 274 § 227; 1998 c 132 § 2; 1994 sp.s. c 9 § 328; 1986 c 259 § 117; 1979 ex.s. c 111 § 15. Formerly RCW 18.72.265.]

Effective date—Implementation—2007 c 273: See RCW 70.230.900 and 70.230.901.

Finding—Intent—1998 c 132: "The legislature finds that the self-imposed license surcharge on physician licenses to fund a program to help physicians with chemical dependency or mental illness is not being fully spent on that program. It is the intent of the legislature that the program be fully funded and that funds collected into the impaired physician account be spent only on the program." [1998 c 132 § 1.]

Additional notes found at www.leg.wa.gov

18.71.021 License required. No person may practice or represent himself or herself as practicing medicine without first having a valid license to do so. [1987 c 150 § 46.]

Additional notes found at www.leg.wa.gov

18.71.030 Exemptions. Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.210 RCW;

(4) The practice of dentistry, osteopathic medicine and surgery, nursing, chiropractic, podiatric medicine and surgery, optometry, naturopathy, or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him or her by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or

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appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the commission, however, the performance of such services be only pursuant to a regular course of instruction or assignments from his or her instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(8) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state, however, the performance of such services shall be only pursuant to his or her duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician assistant program approved by the commission, however, the performance of such services shall be only pursuant to a regular course of instruction in said program and such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a licensed physician assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(12) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the commission, however, a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist, and the commission has jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to this chapter and chapter 18.130 RCW;

(13) Emergency lifesaving service rendered by a *physician's trained emergency medical service intermediate life support technician and paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician;

(14) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in RCW 18.79.290 and 28A.210.280. [1996 c 178 § 4; 1995 c 65 § 1; 1994 sp.s. c 9 § 306. Prior: 1990 c 196 § 12; 1990 c 33 § 552; 1988 c 48 § 4; 1986 c 259 § 108; 1983 c 2 § 1; prior: 1982 c 195 § 3; 1982 c 51 § 1; 1975 1st ex.s. c 171 § 5; 1973 1st ex.s. c 110 § 1; 1961 c 284 § 4; 1919 c 134 § 12; 1909 c 192 § 19; RRS § 10024.]

***Reviser's note:** The term "physician's trained emergency medical service intermediate life support technician and paramedic" was changed to "physician's trained advanced emergency medical technician and paramedic" by 2015 c 93 § 2.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

18.71.040 Application—Fee. Every applicant for a license to practice medicine and surgery shall pay a fee determined by the secretary as provided in RCW 43.70.250. [2003 c 275 § 1; 1991 c 3 § 160; 1985 c 322 § 1. Prior: 1975 1st ex.s. c 171 § 6; 1975 1st ex.s. c 30 § 61; 1955 c 202 § 35; prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

18.71.050 Application—Eligibility requirements—United States and Canadian graduates. (1) Each applicant who has graduated from a school of medicine located in any state, territory, or possession of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the commission on a form prepared by the secretary with the approval of the commission. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has attended and graduated from a school of medicine approved by the commission;

(b) That the applicant has completed two years of postgraduate medical training in a program acceptable to the commission, provided that applicants graduating before July 28, 1985, may complete only one year of postgraduate medical training;

(c) That the applicant is of good moral character; and

(d) That the applicant is physically and mentally capable of safely carrying on the practice of medicine. The commission may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice medicine.

(2) Nothing in this section shall be construed as prohibiting the commission from requiring such additional information from applicants as it deems necessary. The issuance and denial of licenses are subject to chapter 18.130 RCW, the Uniform Disciplinary Act. [1994 sp.s. c 9 § 307; 1991 c 3 § 161. Prior: 1986 c 259 § 109; 1985 c 322 § 2; 1975 1st ex.s. c 171 § 7; 1961 c 284 § 5; 1957 c 60 § 3; prior: 1947 c 168 § 1, part; 1919 c 134 § 3, part; 1909 c 192 § 6, part; Rem. Supp. 1947 § 10008, part; prior: 1905 c 41 § 1, part; 1901 c 42 § 1, part; 1890 p 115 § 3, part; Code 1881 § 2285, part.]

Additional notes found at www.leg.wa.gov

18.71.051 Application—Eligibility requirements—Foreign graduates. Applicants for licensure to practice medicine who have graduated from a school of medicine located outside of the states, territories, and possessions of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the commission on a form prepared by the secretary with the approval of the commission. Each applicant shall furnish proof satisfactory to the commission of the following:

(1) That he or she has completed in a school of medicine a resident course of professional instruction equivalent to that required in this chapter for applicants generally;

(2)(a) Except as provided in (b) of this subsection, that he or she meets all the requirements which must be met by graduates of the United States and Canadian school of medi-

cine except that he or she need not have graduated from a school of medicine approved by the commission;

(b) An applicant for licensure under this section is not required to meet the requirements of RCW 18.71.050(1)(b) if he or she furnishes proof satisfactory to the commission that he or she has:

(i)(A) Been admitted as a permanent immigrant to the United States as a person of exceptional ability in sciences pursuant to the rules of the United States department of labor; or

(B) Been issued a permanent immigration visa; and

(ii) Received multiple sclerosis certified specialist status from the consortium of multiple sclerosis centers; and

(iii) Successfully completed at least twenty-four months of training in multiple sclerosis at an educational institution in the United States with an accredited residency program in neurology or rehabilitation;

(3) That he or she has satisfactorily passed the examination given by the educational council for foreign medical graduates or has met the requirements in lieu thereof as set forth in rules adopted by the commission;

(4) That he or she has the ability to read, write, speak, understand, and be understood in the English language. [2011 c 138 § 1; 1994 sp.s. c 9 § 308; 1991 c 3 § 162; 1975 1st ex.s. c 171 § 16.]

Additional notes found at www.leg.wa.gov

18.71.055 Schools of medicine—Requirements for approval. The commission may approve any school of medicine which is located in any state, territory, or possession of the United States, the District of Columbia, or in the Dominion of Canada, provided that it:

(1) Requires collegiate instruction which includes courses deemed by the commission to be prerequisites to medical education;

(2) Provides adequate instruction in the following subjects: Anatomy, biochemistry, microbiology and immunology, pathology, pharmacology, physiology, anaesthesiology, dermatology, gynecology, internal medicine, neurology, obstetrics, ophthalmology, orthopedic surgery, otolaryngology, pediatrics, physical medicine and rehabilitation, preventive medicine and public health, psychiatry, radiology, surgery, and urology, and such other subjects determined by the commission;

(3) Provides clinical instruction in hospital wards and outpatient clinics under guidance.

Approval may be withdrawn by the commission at any time a medical school ceases to comply with one or more of the requirements of this section.

(4) Nothing in this section shall be construed to authorize the commission to approve a school of osteopathic medicine and surgery, or osteopathic medicine, for purposes of qualifying an applicant to be licensed under this chapter by direct licensure, reciprocity, or otherwise. [1996 c 178 § 5; 1994 sp.s. c 9 § 309; 1975 1st ex.s. c 171 § 8; 1961 c 284 § 6; 1957 c 60 § 4.]

Additional notes found at www.leg.wa.gov

18.71.060 Record of proceedings of commission and of applications. The commission shall keep an official record of all its proceedings, a part of which record shall con-

sist of a register of all applicants for licensure under this chapter, with the result of each application. The record shall be evidence of all the proceedings of the commission that are set forth in it. [1994 sp.s. c 9 § 310; 1975 1st ex.s. c 171 § 9; 1961 c 284 § 7; 1909 c 192 § 8; RRS § 10011.]

Additional notes found at www.leg.wa.gov

18.71.070 Examination—Record. With the exception of those applicants granted licensure through the provisions of RCW 18.71.090 or 18.71.095, applicants for licensure must successfully complete an examination administered by the commission to determine their professional qualifications. The commission shall prepare and give, or approve the preparation and giving of, an examination which shall cover those general subjects and topics, a knowledge of which is commonly and generally required of candidates for the degree of doctor of medicine conferred by approved colleges or schools of medicine in the United States. Notwithstanding any other provision of law, the commission has the sole responsibility for determining the proficiency of applicants under this chapter, and, in so doing, may waive any prerequisite to licensure not set forth in this chapter.

The commission may by rule establish the passing grade for the examination.

Examination results shall be part of the records of the commission and shall be permanently kept with the applicant's file. [1994 sp.s. c 9 § 311; 1985 c 322 § 3; 1975 1st ex.s. c 171 § 10; 1961 c 284 § 8; 1919 c 134 § 4; 1909 c 192 § 6; RRS § 10009.]

Additional notes found at www.leg.wa.gov

18.71.080 License renewal—Human trafficking information—Continuing education requirement—Failure to renew, procedure. (1)(a) Every person licensed to practice medicine in this state shall pay licensing fees and renew his or her license in accordance with administrative procedures and administrative requirements adopted as provided in RCW 43.70.250 and 43.70.280.

(b) The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, board certification, or other relevant data determined by the commission.

(c) A physician who resides and practices in Washington and obtains or renews a retired active license shall be exempt from licensing fees imposed under this section. The commission may establish rules governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. The rules shall provide that mandatory continuing education requirements may be met in part by physicians showing evidence of the completion of approved activities relating to professional liability risk management. The number of hours of continuing education for a physician holding a retired active license shall not exceed fifty hours per year.

(2) The office of crime victims advocacy shall supply the commission with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive

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and must include information relating to minor victims. The commission shall disseminate this information to licensees by: Providing the information on the commission's web site; including the information in newsletters; holding trainings at meetings attended by organization members; or another distribution method determined by the commission. The commission shall report to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection.

(3) The commission, in its sole discretion, may permit an applicant who has not renewed his or her license to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine. [2015 c 252 § 8; 2011 c 178 § 1. Prior: 2009 c 492 § 5; 2009 c 403 § 2; 1996 c 191 § 52; 1994 sp.s. c 9 § 312; prior: 1991 c 195 § 1; 1991 c 3 § 163; 1985 c 322 § 4; prior: 1979 c 158 §§ 53, 54, 55; 1975 1st ex.s. c 171 § 11; 1971 ex.s. c 266 § 12; 1955 c 202 § 36; prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

Intent—2015 c 252: See note following RCW 70.112.010.

Finding—Intent—2009 c 403: "The legislature finds that increasing the number of retired physicians who provide volunteer health care services is a cost-effective way to improve access to health care for many citizens of this state. Physicians holding a retired active license must currently meet many of the same requirements as physicians in active practice, including at least fifty hours of continuing education a year, despite the fact that retired active physicians may only practice a maximum of ninety days a year, are limited to providing primary care services, and are limited to providing such services only in community clinics that are operated by public or private tax-exempt corporations. This presents both financial and practical barriers for retired physicians who wish to provide health care services on a volunteer basis, barriers that are not as stringent in other states that provide similar licenses for retired physicians. It is therefore the intent of the legislature to ease some of these barriers in a manner that does not adversely affect public safety." [2009 c 403 § 1.]

Additional notes found at www.leg.wa.gov

18.71.085 Inactive licenses—Renewal—Application of disciplinary provisions. The commission may adopt rules pursuant to this section authorizing an inactive license status.

(1) An individual licensed pursuant to chapter 18.71 RCW may place his or her license on inactive status. The holder of an inactive license shall not practice medicine and surgery in this state without first activating the license.

(2) The administrative procedures, administrative requirements, and fee for inactive renewal shall be established pursuant to RCW 43.70.250 and 43.70.280.

(3) An inactive license may be placed in an active status upon compliance with rules established by the commission.

(4) Provisions relating to disciplinary action against a person with a license shall be applicable to a person with an inactive license, except that when disciplinary proceedings against a person with an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed. [1996 c 191 § 53; 1994 sp.s. c 9 § 313; 1991 c 44 § 2.]

Additional notes found at www.leg.wa.gov

18.71.090 License without examination—Reciprocity—National board examinees—Fee. Any applicant who meets the requirements of RCW 18.71.050 and has been

licensed under the laws of another state, territory, or possession of the United States, or of any province of Canada, or an applicant who has satisfactorily passed examinations given by the national board of medical examiners may, in the discretion of the commission, be granted a license without examination on the payment of the fees required by this chapter: PROVIDED, That the applicant must file with the commission a copy of the license certified by the proper authorities of the issuing state to be a full, true copy thereof, and must show that the standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state. [1994 sp.s. c 9 § 314; 1985 c 322 § 5. Prior: 1975 1st ex.s. c 171 § 12; 1975 1st ex.s. c 30 § 63; 1961 c 284 § 9; 1957 c 60 § 5; 1919 c 134 § 11; RRS § 10023.]

Additional notes found at www.leg.wa.gov

18.71.095 Limited licenses. The commission may, without examination, issue a limited license to persons who possess the qualifications set forth herein:

(1) The commission may, upon the written request of the secretary of the department of social and health services or the secretary of corrections, issue a limited license to practice medicine in this state to persons who have been accepted for employment by the department of social and health services or the department of corrections as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with patients, residents, or inmates of the state institutions under the control and supervision of the secretary of the department of social and health services or the department of corrections.

(2) The commission may issue a limited license to practice medicine in this state to persons who have been accepted for employment by a county or city health department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with his or her duties in employment with the city or county health department.

(3) Upon receipt of a completed application showing that the applicant meets all of the requirements for licensure set forth in RCW 18.71.050 except for completion of two years of postgraduate medical training, and that the applicant has been appointed as a resident physician in a program of postgraduate clinical training in this state approved by the commission, the commission may issue a limited license to a resident physician. Such license shall permit the resident physician to practice medicine only in connection with his or her duties as a resident physician and shall not authorize the physician to engage in any other form of practice. Each resident physician shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

(4)(a) Upon nomination by the dean of the school of medicine at the University of Washington or the chief executive officer of a hospital or other appropriate health care facility licensed in the state of Washington, the commission may issue a limited license to a physician applicant invited to serve as a teaching-research member of the institution's instructional staff if the sponsoring institution and the applicant give evidence that he or she has graduated from a recognized medical school and has been licensed or otherwise privileged to practice medicine at his or her location of origin. Such license shall permit the recipient to practice medicine only within the confines of the instructional program specified in the application and shall terminate whenever the holder ceases to be involved in that program, or at the end of one year, whichever is earlier. Upon request of the applicant and the institutional authority, the license may be renewed.

(b) Upon nomination by the dean of the school of medicine of the University of Washington or the chief executive officer of any hospital or appropriate health care facility licensed in the state of Washington, the commission may issue a limited license to an applicant selected by the sponsoring institution to be enrolled in one of its designated departmental or divisional fellowship programs provided that the applicant shall have graduated from a recognized medical school and has been granted a license or other appropriate certificate to practice medicine in the location of the applicant's origin. Such license shall permit the holder only to practice medicine within the confines of the fellowship program to which he or she has been appointed and, upon the request of the applicant and the sponsoring institution, the license may be renewed by the commission for no more than a total of two years.

All persons licensed under this section shall be subject to the jurisdiction of the commission to the same extent as other members of the medical profession, in accordance with this chapter and chapter 18.130 RCW.

Persons applying for licensure and renewing licenses pursuant to this section shall comply with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. Any person who obtains a limited license pursuant to this section may apply for licensure under this chapter, but shall submit a new application form and comply with all other licensing requirements of this chapter. [2001 c 114 § 1; 1996 c 191 § 54; 1994 sp.s. c 9 § 315; 1991 c 3 § 164; 1990 c 160 § 1; 1987 c 129 § 1. Prior: 1986 c 259 § 110; 1985 c 322 § 6; 1975 1st ex.s. c 171 § 13; 1973 1st ex.s. c 4 § 1; 1967 c 138 § 1; 1965 c 29 § 1; 1959 c 189 § 1.]

Additional notes found at www.leg.wa.gov

18.71.100 Applicability of health regulations. All persons granted licenses or certificates under this chapter, shall be subject to the state and municipal regulations relating to the control of contagious diseases, the reporting and certifying to births and deaths, and all matters pertaining to public health; and all such reports shall be accepted as legal. [1909 c 192 § 18; RRS § 10022.]

Public health and safety: Title 70 RCW.

Vital statistics: Chapter 70.58 RCW.

18.71.190 False personation. Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself or herself to be the person named in such certificate, or falsely claiming himself or herself to be the person entitled to the same, is guilty of forgery under RCW 9A.60.020. [2003 c 53 § 138; 1909 c 192 § 16; RRS § 10019.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

False personation in the first or second degree: RCW 9A.60.040, 9A.60.045.

18.71.200 Physician's trained advanced emergency medical technician and paramedic—Definition. As used in this chapter, a "physician's trained advanced emergency medical technician and paramedic" means a person who:

(1) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(2) Is trained under the supervision of an approved medical program director according to training standards prescribed in rule to perform specific phases of advanced cardiac and trauma life support under written or oral authorization of an approved licensed physician; and

(3) Has been examined and certified as a physician's trained advanced emergency medical technician and paramedic, by level, by the University of Washington's school of medicine or the department of health. [2015 c 93 § 2; 1995 c 65 § 2; 1991 c 3 § 165; 1986 c 259 § 111; 1983 c 112 § 1; 1977 c 55 § 2; 1973 1st ex.s. c 52 § 1; 1971 ex.s. c 305 § 2.]

Additional notes found at www.leg.wa.gov

18.71.205 Physician's trained advanced emergency medical technician and paramedic—Certification. (1) The secretary of the department of health shall prescribe:

(a) Practice parameters, training standards for, and levels of, physician's trained advanced emergency medical technicians and paramedics;

(b) Minimum standards and performance requirements for the certification and recertification of physician's trained advanced emergency medical technicians and paramedics; and

(c) Procedures for certification, recertification, and decertification of physician's trained advanced emergency medical technicians and paramedics.

(2) Initial certification shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(4) As used in this chapter and chapter 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to this chapter or osteopathic medicine and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council.

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(5) 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 section. The secretary shall be the disciplining authority under this section. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

(6) Such activities of physician's trained advanced emergency medical technicians and paramedics shall be limited to actions taken under the express written or oral order of medical program directors and shall not be construed at any time to include freestanding or nondirected actions, for actions not presenting an emergency or life-threatening condition, except nonemergency activities performed pursuant to subsection (7) of this section.

(7) Nothing in this section prohibits a physician's trained advanced emergency medical technician or paramedic, acting under the responsible supervision and direction of an approved medical program director, from participating in a community assistance referral and education services program established under RCW 35.21.930 if such participation does not exceed the participant's training and certification. [2015 c 93 § 3; 2010 1st sp.s. c 7 § 24. Prior: 1996 c 191 § 55; 1996 c 178 § 6; 1995 c 65 § 3; 1994 sp.s. c 9 § 316; 1992 c 128 § 1; 1990 c 269 § 18; 1986 c 68 § 1; 1983 c 112 § 2; 1977 c 55 § 3.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

18.71.210 Physician's trained advanced emergency medical technician and paramedic—Liability. (1) No act or omission of any physician's trained advanced emergency medical technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

(a) The physician's trained advanced emergency medical technician and paramedic, emergency medical technician, or first responder;

(b) The medical program director;

(c) The supervising physician(s);

(d) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(e) Any training agency or training physician(s);

(f) Any licensed ambulance service; or

(g) Any federal, state, county, city, or other local governmental unit or employees of such a governmental unit.

(2) This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained advanced emergency medical technician and paramedic, emergency medical technician, or first responder, as the case may be.

[Title 18 RCW—page 207]

This section shall apply also to emergency medical technicians, advanced emergency medical technicians, paramedics, and medical program directors participating in a community assistance referral and education services program established under RCW 35.21.930.

(3) This section shall apply also, as to the entities and personnel described in subsection (1) of this section, to any act or omission committed or omitted in good faith by such entities or personnel in rendering services at the request of an approved medical program director in the training of emergency medical service personnel for certification or recertification pursuant to this chapter.

(4) This section shall apply also, as to the entities and personnel described in subsection (1) of this section, to any act or omission committed or omitted in good faith by such entities or personnel involved in the transport of patients to mental health facilities or chemical dependency programs, in accordance with applicable alternative facility procedures adopted under RCW 70.168.100.

(5) This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct. [2015 c 157 § 5; 2015 c 93 § 4; 1997 c 275 § 1; 1997 c 245 § 1. Prior: 1995 c 103 § 1; 1995 c 65 § 4; 1989 c 260 § 4; 1987 c 212 § 502; 1986 c 68 § 4; 1983 c 112 § 3; 1977 c 55 § 4; 1971 ex.s. c 305 § 3.]

Reviser's note: This section was amended by 2015 c 93 § 4 and by 2015 c 157 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

18.71.212 Medical program directors—Certification.

The secretary of the department of health, in conjunction with the state emergency medical services and trauma care committee, shall evaluate, certify and terminate certification of medical program directors, and prescribe minimum standards defining duties and responsibilities and performance of duties and responsibilities. [1990 c 269 § 19; 1986 c 68 § 2.]

18.71.213 Medical program directors—Termination—Temporary delegation of authority. If a medical program director terminates certification, that medical program director's authority may be delegated by the department to any other licensed physician for a period of thirty days, or until a new medical program director is certified, whichever comes first. [1986 c 68 § 3.]

18.71.215 Medical program directors—Liability for acts or omissions of others. The department of health shall defend and hold harmless approved medical program directors, delegates, or agents, including but not limited to hospitals and hospital personnel in their capacity of training emergency service medical personnel for certification or recertification pursuant to this chapter at the request of such directors, for any act or omission committed or omitted in good faith in the performance of their duties. [1995 c 103 § 2; 1990 c 269 § 20; 1986 c 68 § 5; 1983 c 112 § 4.]

Additional notes found at www.leg.wa.gov

18.71.220 Rendering emergency care—Immunity of physician or hospital from civil liability. No physician or

hospital licensed in this state shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital, or health services to any individual regardless of age where its patient is unable to give his or her consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care: PROVIDED, That such physician or hospital has acted in good faith and without knowledge of facts negating consent. [2011 c 336 § 497; 1971 ex.s. c 305 § 4.]

Immunity from liability for certain types of medical care: RCW 4.24.300.

18.71.230 Disciplinary action against persons exempt from licensure. A right to practice medicine and surgery by an individual in this state pursuant to RCW 18.71.030 (5) through (12) shall be subject to discipline by order of the commission upon a finding by the commission of an act of unprofessional conduct as defined in RCW 18.130.180 or that the individual is unable to practice with reasonable skill or safety due to a mental or physical condition as described in RCW 18.130.170. Such physician shall have the same rights of notice, hearing, and judicial review as provided licensed physicians generally under this chapter and chapter 18.130 RCW. [1994 sp.s. c 9 § 317; 1986 c 259 § 112; 1979 c 158 § 57; 1973 1st ex.s. c 110 § 2.]

Additional notes found at www.leg.wa.gov

18.71.240 Abortion—Right to medical treatment of infant born alive. The right of medical treatment of an infant born alive in the course of an abortion procedure shall be the same as the right of an infant born prematurely of equal gestational age. [1981 c 328 § 1.]

18.71.250 Down syndrome—Parent information. A physician licensed under this chapter who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the physician provides the parent with the Down syndrome diagnosis. [2016 c 70 § 5.]

18.71.300 Impaired physician program—Definitions. The definitions in this section apply throughout RCW 18.71.310 through 18.71.340 unless the context clearly requires otherwise.

(1) "Entity" means a nonprofit corporation formed by physicians who have expertise in the areas of alcohol abuse, drug abuse, alcoholism, other drug addictions, and mental illness and who broadly represent the physicians of the state and that has been designated to perform any or all of the activities set forth in RCW 18.71.310(1) by the commission.

(2) "Impaired" or "impairment" means the inability to practice medicine with reasonable skill and safety to patients by reason of physical or mental illness including alcohol abuse, drug abuse, alcoholism, other drug addictions, or other debilitating conditions.

(3) "Impaired physician program" means the program for the prevention, detection, intervention, monitoring, and treatment of impaired physicians established by the commission pursuant to RCW 18.71.310(1).

(4) "Physician" or "practitioner" means a person licensed under this chapter, chapter 18.71A RCW, or a professional licensed under another chapter of Title 18 RCW whose disciplining authority has a contract with the entity for an impaired practitioner program for its license holders.

(5) "Treatment program" means a plan of care and rehabilitation services provided by those organizations or persons authorized to provide such services to be approved by the commission or entity for impaired physicians taking part in the impaired physician program created by RCW 18.71.310. [1998 c 132 § 3; 1994 sp.s. c 9 § 329; 1989 c 119 § 1; 1987 c 416 § 1. Formerly RCW 18.72.301.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.71.310 Impaired physician program—License surcharge—Payment of funds. (1) The commission shall enter into a contract with the entity to implement an impaired physician program. The commission may enter into a contract with the entity for up to six years in length. The impaired physician program may include any or all of the following:

(a) Entering into relationships supportive of the impaired physician program with professionals who provide either evaluation or treatment services, or both;

(b) Receiving and assessing reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment, or in cases where there is reasonable cause to suspect impairment;

(d) Upon reasonable cause, referring suspected or verified impaired physicians for evaluation or treatment;

(e) Monitoring the treatment and rehabilitation of impaired physicians including those ordered by the commission;

(f) Providing monitoring and continuing treatment and rehabilitative support of physicians;

(g) Performing such other activities as agreed upon by the commission and the entity; and

(h) Providing prevention and education services.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of fifty dollars per year on each license renewal or issuance of a new license to be collected by the department of health from every physician and surgeon licensed under this chapter in addition to other license fees. These moneys shall be placed in the impaired physician account to be used solely for the implementation of the impaired physician program.

(3) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit. [2009 c 98 § 1; 2001 c 109 § 1; 1998 c 132 § 4; 1997 c 79 § 2; 1994 sp.s. c 9 § 330; 1991 c 3 § 169; 1989 c 119 § 2; 1987 c 416 § 2. Formerly RCW 18.72.306.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.71.315 Impaired physician account—Created. The impaired physician account is created in the custody of the state treasurer. All receipts from RCW 18.71.310 from license surcharges on physicians and physician assistants shall be deposited into the account. Expenditures from the

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account may only be used for the impaired physician program under this chapter. Only the secretary of health or the secretary's designee may authorize expenditures from the account. No appropriation is required for expenditures from this account. [1998 c 132 § 12.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

18.71.320 Impaired physician program—Procedures. The entity shall develop procedures in consultation with the commission for:

(1) Periodic reporting of statistical information regarding impaired physician activity;

(2) Periodic disclosure and joint review of such information as the commission may deem appropriate regarding reports received, contacts or investigations made, and the disposition of each report. However, the entity shall not disclose any personally identifiable information except as provided in subsections (3) and (4) of this section;

(3) Immediate reporting to the commission of the name and results of any contact or investigation regarding any suspected or verified impaired physician who is reasonably believed probably to constitute an imminent danger to himself or herself or to the public;

(4) Reporting to the commission, in a timely fashion, any suspected or verified impaired physician who fails to cooperate with the entity, fails to submit to evaluation or treatment, or whose impairment is not substantially alleviated through treatment, or who, in the opinion of the entity, is probably unable to practice medicine with reasonable skill and safety;

(5) Informing each participant of the impaired physician program of the program procedures, the responsibilities of program participants, and the possible consequences of non-compliance with the program. [1998 c 132 § 5; 1994 sp.s. c 9 § 331; 1987 c 416 § 3. Formerly RCW 18.72.311.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.71.330 Impaired physician program—Evaluation of physician. If the commission has reasonable cause to believe that a physician is impaired, the commission shall cause an evaluation of such physician to be conducted by the entity or the entity's designee or the commission's designee for the purpose of determining if there is an impairment. The entity or appropriate designee shall report the findings of its evaluation to the commission. [1998 c 132 § 6; 1994 sp.s. c 9 § 332; 1987 c 416 § 4. Formerly RCW 18.72.316.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.71.340 Impaired physician program—Entity records protected. All entity records are not subject to disclosure pursuant to chapter 42.56 RCW. [2005 c 274 § 228; 1998 c 132 § 7; 1987 c 416 § 6. Formerly RCW 18.72.321.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.71.350 Report of malpractice payments by insurers. (1) Every institution or organization providing professional liability insurance to physicians shall send a complete report to the commission of all malpractice settlements, awards, or payments in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured physician's incompetency or negligence in the practice of medicine. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a five-year time period as the result of the alleged physician's incompetence or negligence in the practice of medicine regardless of the dollar amount of the award or payment.

(2) Reports required by this section shall be made within sixty days of the date of the settlement or verdict. Failure to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars. [1994 sp.s. c 9 § 333; 1993 c 367 § 17; 1986 c 300 § 6. Formerly RCW 18.72.340.]

Legislative findings—Severability—1986 c 300: See notes following RCW 18.57.245.

Additional notes found at www.leg.wa.gov

18.71.360 Driving records. To assist in identifying impairment related to alcohol abuse, the commission may obtain a copy of the driving record of a physician or a physician assistant maintained by the department of licensing. [1994 sp.s. c 9 § 334; 1991 c 215 § 2. Formerly RCW 18.72.345.]

Additional notes found at www.leg.wa.gov

18.71.401 Funds collected—Where deposited. All assessments, fines, and other funds collected or received under this chapter must be deposited in the health professions account and used solely to administer and implement this chapter. [1997 c 79 § 1.]

Additional notes found at www.leg.wa.gov

18.71.420 Allocation of all appropriated funds. The secretary of health shall allocate all appropriated funds to accomplish the purposes of this chapter. [1991 c 3 § 171; 1983 c 71 § 3. Formerly RCW 18.72.400.]

18.71.430 Secretary and commission relationship.

- (1) The secretary shall employ an executive director that is:
- (a) Hired by and serves at the pleasure of the commission;
 - (b) Exempt from the provisions of the civil service law, chapter 41.06 RCW and whose salary is established by the commission in accordance with RCW 43.03.028; and
 - (c) Responsible for performing all administrative duties of the commission, including preparing an annual budget, and any other duties as delegated to the executive director by the commission.

(2) Consistent with the budgeting and accounting act, the commission is responsible for proposing its own biennial budget which the secretary must submit to the office of financial management.

(3) Prior to adopting credentialing fees under RCW 43.70.250, the secretary shall collaborate with the commission to determine the appropriate fees necessary to support the activities of the commission.

(4) Prior to the secretary exercising the secretary's authority to adopt uniform rules and guidelines, or any other actions that might impact the licensing or disciplinary authority of the commission, the secretary shall first meet with the commission to determine how those rules or guidelines, or changes to rules or guidelines, might impact the commission's ability to effectively carry out its statutory duties. If the commission, in consultation with the secretary, determines that the proposed rules or guidelines, or changes to existing rules or guidelines, will negatively impact the commission's ability to effectively carry out its statutory duties, then the individual commission shall collaborate with the secretary to develop alternative solutions to mitigate the impacts. If an alternative solution cannot be reached, the parties may resolve the dispute through a mediator as set forth in subsection (6) of this section.

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

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

(7) The secretary shall employ staff that are hired and managed by the executive director provided that nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement. [2013 c 81 § 3; 2011 c 60 § 7; 2008 c 134 § 29.]

Effective date—2013 c 81: See note following RCW 18.25.210.

Effective date—2011 c 60: See RCW 42.17A.919.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.71.440 Commission to consider amending rules—Retired active physicians. (1) The commission shall consider amending its rules on retired active physicians in a manner that improves access to health care services for the citizens of this state without compromising public safety. When considering whether to amend its rules, the commission shall, at a minimum, consider the following:

- (a) Whether physicians holding retired active licenses should be allowed to provide health care services beyond primary care;
- (b) Whether physicians holding retired active licenses should be allowed to provide health care services in settings beyond community clinics operated by public or private tax-exempt corporations; and
- (c) The number and type of continuing education hours that physicians holding retired active licenses shall be required to obtain.

(2) The commission shall determine whether it will amend its rules in the manner suggested by this section no later than November 15, 2009. If the commission determines that it will not amend its rules, it shall provide a written explanation of its decision to the appropriate committees of the legislature no later than December 1, 2009. [2009 c 403 § 4.]

Finding—Intent—2009 c 403: See note following RCW 18.71.080.

18.71.450 Pain management rules—Repeal—Adoption of new rules. (1) By June 30, 2011, the commission shall repeal its rules on pain management, WAC 246-919-800 through 246-919-830.

(2) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a physician first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience—that is sufficient to exempt a physician from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physicians in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure. [2010 c 209 § 5.]

18.71.460 Commission—Information to legislature.

In addition to the authority provided in RCW 42.52.804, the commission, its members, or staff as directed by the commission, may communicate, present information requested, volunteer information, testify before legislative committees, and educate the legislature, as the commission may from time to time see fit. [2013 c 81 § 4.]

Effective date—2013 c 81: See note following RCW 18.25.210.

18.71.910 Repeal—1909 c 192. All acts, or parts of acts, in any wise conflicting with the provisions of this act, are hereby repealed. [1909 c 192 § 22.]

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18.71.920 Repeal—1957 c 60. All acts and parts of acts to the extent that the same are in conflict herewith are hereby repealed. [1957 c 60 § 6.]

Chapter 18.71A RCW PHYSICIAN ASSISTANTS

Sections

- 18.71A.010 Definitions.
- 18.71A.020 Rules fixing qualifications and restricting practice—Applications—Discipline—Payment of funds.
- 18.71A.023 Practice requirements—Military training or experience.
- 18.71A.025 Application of uniform disciplinary act.
- 18.71A.030 Limitations on practice—Scope of practice.
- 18.71A.035 Limitation on practice—Remote sites.
- 18.71A.040 Commission approval required—Application—Fee—Discipline.
- 18.71A.045 Eligibility of foreign medical school graduates.
- 18.71A.050 Physician's liability, responsibility.
- 18.71A.060 Limitations on health care services.
- 18.71A.085 Acupuncture.
- 18.71A.090 Signing and attesting to required documentation.
- 18.71A.100 Pain management rules—Criteria for new rules.
- 18.71A.110 Down syndrome—Parent information.

Reviser's note: Certain powers and duties of the department of licensing and the director of licensing transferred to the department of health and the secretary of health. See RCW 43.70.220.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

18.71A.010 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Physician assistant" means a person who is licensed by the commission to practice medicine to a limited extent only under the supervision of a physician as defined in chapter 18.71 RCW and who is academically and clinically prepared to provide health care services and perform diagnostic, therapeutic, preventative, and health maintenance services.

(2) "Commission" means the medical quality assurance commission.

(3) "Practice medicine" has the meaning defined in RCW 18.71.011.

(4) "Secretary" means the secretary of health or the secretary's designee.

(5) "Department" means the department of health. [1994 sp.s. c 9 § 318; 1990 c 196 § 1; 1988 c 113 § 1; 1975 1st ex.s. c 190 § 1; 1971 ex.s. c 30 § 1.]

Medical quality assurance commission: Chapter 18.71 RCW.

Additional notes found at www.leg.wa.gov

18.71A.020 Rules fixing qualifications and restricting practice—Applications—Discipline—Payment of funds.

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and within one year successfully take and pass an examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of medical examiners, or the medical

quality assurance commission as of July 1, 1999, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of fifty dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the impaired physician program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4)(a) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW.

(b) The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, or other relevant data determined by the commission.

(c) The commission may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

(5) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit. [2015 c 252 § 9; 2011 c 178 § 2; 2009 c 98 § 2; 1999 c 127 § 1; 1998 c 132 § 14; 1996 c 191 § 57; 1994 sp.s. c 9 § 319; 1993 c 28 § 5; 1992 c 28 § 2; 1990 c 196 § 2; 1971 ex.s. c 30 § 2.]

Intent—2015 c 252: See note following RCW 70.112.010.

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.71A.023 Practice requirements—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the commission determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 6.]

18.71A.025 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter. [1986 c 259 § 106.]

Additional notes found at www.leg.wa.gov

18.71A.030 Limitations on practice—Scope of practice. (1) A physician assistant may practice medicine in this state only with the approval of the delegation agreement by the commission and only to the extent permitted by the commission. A physician assistant who has received a license but who has not received commission approval of the delegation agreement under RCW 18.71A.040 may not practice. A physician assistant shall be subject to discipline under chapter 18.130 RCW.

(2) Physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their commission-approved delegation agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the degree of supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the supervising physician's own scope of expertise and practice. [2016 c 155 § 23; 2013 c 203 § 6; 1994 sp.s. c 9 § 320; 1993 c 28 § 6; 1990 c 196 § 3; 1971 ex.s. c 30 § 3.]

Rules—2013 c 203: See note following RCW 18.57A.035.

Additional notes found at www.leg.wa.gov

18.71A.035 Limitation on practice—Remote sites. (1) No licensee may be utilized in a remote site without approval by the commission or its designee. A "remote site" is defined as a setting physically separate from the sponsoring or supervising physician's primary place for meeting patients or a setting where the physician is present less than twenty-five percent of the practice time of the licensee.

(2)(a) Approval by the commission or its designee may be granted to utilize a licensee in a remote site if:

(i) There is a demonstrated need for the utilization;

(ii) Adequate provision for timely communication between the primary or alternate physician and the licensee exists;

(iii) The responsible sponsoring or supervising physician spends at least ten percent of the practice time of the licensee in the remote site unless the sponsoring physician demonstrates that adequate supervision is being maintained by an alternate method such as telecommunication.

(b) The names of the sponsoring or supervising physician and the licensee must be prominently displayed at the entrance to the clinic or in the reception area.

(3) No physician assistant holding an interim permit may be utilized in a remote site setting. [2013 c 203 § 2.]

Rules—2013 c 203: See note following RCW 18.57A.035.

18.71A.040 Commission approval required—Application—Fee—Discipline. (1) No physician assistant practicing in this state shall be employed or supervised by a physician or physician group without the approval of the commission.

(2) Prior to commencing practice, a physician assistant licensed in this state shall apply to the commission for permission to be employed or supervised by a physician or physician group. The delegation agreement shall be jointly submitted by the physician or physician group and physician assistant. Administrative procedures, administrative requirements, and fees shall be established as provided in RCW 43.70.250 and 43.70.280. The delegation agreement shall delineate the manner and extent to which the physician assistant would practice and be supervised. Whenever a physician assistant is practicing in a manner inconsistent with the approved delegation agreement, the commission may take disciplinary action under chapter 18.130 RCW.

(3) A physician may enter into delegation agreements with five physician assistants, but may petition the commission for a waiver of this limit. However, no physician may have under his or her supervision: (a) More than three physician assistants who are working in remote sites; or (b) more physician assistants than the physician can adequately supervise. [2013 c 203 § 7. Prior: 1996 c 191 § 58; 1996 c 191 § 40; 1994 sp.s. c 9 § 321; 1993 c 28 § 7; 1990 c 196 § 4; prior: 1986 c 259 § 113; 1985 c 7 § 61; 1975 1st ex.s. c 30 § 64; 1975 1st ex.s. c 190 § 2; 1971 ex.s. c 30 § 4.]

Rules—2013 c 203: See note following RCW 18.57A.035.

Additional notes found at www.leg.wa.gov

18.71A.045 Eligibility of foreign medical school graduates. Foreign medical school graduates shall not be eligible for licensing as physician assistants after July 1, 1989. [1994 sp.s. c 9 § 322; 1988 c 113 § 2.]

Additional notes found at www.leg.wa.gov

18.71A.050 Physician's liability, responsibility. No physician who supervises a licensed physician assistant in accordance with and within the terms of any permission granted by the commission is considered as aiding and abetting an unlicensed person to practice medicine. The supervising physician and physician assistant shall retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.011 when performed by the physician assistant. [1994 sp.s. c 9 § 323; 1993 c 28 § 8; 1990 c 196 § 5; 1986 c 259 § 114; 1971 ex.s. c 30 § 5.]

Additional notes found at www.leg.wa.gov

18.71A.060 Limitations on health care services. No health care services may be performed under this chapter in any of the following areas:

(1) The measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions

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in general, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) Nothing in this section shall preclude the performance of routine visual screening.

(5) The practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW respectively. The exemptions set forth in RCW 18.32.030 (1) and (8), shall not apply to a physician assistant.

(6) The practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulations of the spine.

(7) The practice of podiatric medicine and surgery as defined in chapter 18.22 RCW. [1994 sp.s. c 9 § 324; 1990 c 196 § 6; 1973 c 77 § 21; 1971 ex.s. c 30 § 6.]

Additional notes found at www.leg.wa.gov

18.71A.085 Acupuncture. Any physician assistant acupuncturist currently licensed by the commission may continue to perform acupuncture under the physician assistant license as long as he or she maintains licensure as a physician assistant. [1994 sp.s. c 9 § 325; 1990 c 196 § 10.]

Additional notes found at www.leg.wa.gov

18.71A.090 Signing and attesting to required documentation. A physician assistant may sign and attest to any certificates, cards, forms, or other required documentation that the physician assistant's supervising physician or physician group may sign, provided that it is within the physician assistant's scope of practice and is consistent with the terms of the physician assistant's practice arrangement plan as required by this chapter. [2007 c 264 § 3.]

Finding—Intent—2007 c 264: "The legislature finds that some state agencies and departments do not accept the signature of physician assistants on certain certificates, reports, and other documents that their supervising physician is permitted to sign, notwithstanding the fact that the signing of such documents is within the physician assistant's scope of practice, covered under their practice arrangement plan, and permitted pursuant to WAC 246-918-140.

It is therefore the intent of the legislature to clarify in statute what was adopted by rule in WAC 246-918-140, that a physician assistant may sign and attest to any document that might ordinarily be signed by the supervising physician and that is consistent with the terms of the practice arrangement plan." [2007 c 264 § 1.]

18.71A.100 Pain management rules—Criteria for new rules. (1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a physician assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a physician assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure. [2010 c 209 § 6.]

18.71A.110 Down syndrome—Parent information.

A physician assistant who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the physician assistant provides the parent with the Down syndrome diagnosis. [2016 c 70 § 6.]

Chapter 18.73 RCW

EMERGENCY MEDICAL CARE AND TRANSPORTATION SERVICES

Sections

18.73.010	Legislative finding.
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18.73.280	Ambulance service—Transport of patients to a nonmedical facility.
18.73.910	Effective dates—1973 1st ex.s. c 208.

AIDS education and training: Chapter 70.24 RCW.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Natural death act and futile treatment: RCW 43.70.480.

Poison information centers: Chapter 18.76 RCW.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

18.73.010 Legislative finding. The legislature finds that a statewide program of emergency medical care is necessary to promote the health, safety, and welfare of the citizens of this state. The intent of the legislature is to assure minimum standards and training for first responders and emergency medical technicians, and minimum standards for ambulance services, ambulances, aid vehicles, aid services, and emergency medical equipment. [1990 c 269 § 22; 1988 c 104 § 2; 1987 c 214 § 1; 1973 1st ex.s. c 208 § 1.]

18.73.020 Supersession of local regulation. The legislature further declares its intention to supersede all ordinances, regulations, and requirements promulgated by counties, cities and other political subdivisions of the state of Washington, insofar as they may provide for the regulation of emergency medical care, first aid, and ambulance services which do not exceed the provisions of this chapter; except that (1) license fees established in this chapter shall supersede all license fees of counties, cities and other political subdivisions of this state; and, (2) nothing in this chapter shall alter the provisions of RCW 18.71.200, 18.71.210, and 18.71.220. [1986 c 259 § 118; 1973 1st ex.s. c 208 § 2.]

Additional notes found at www.leg.wa.gov

18.73.030 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(2) "Aid service" means an organization that operates one or more aid vehicles.

(3) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "Ambulance service" means an organization that operates one or more ambulances.

(6) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in chapter 18.73 RCW.

(7) "Communications system" means a radio and land-line network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(8) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

(9) "Department" means the department of health.

(10) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(11) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

(12) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081 or, under the responsible supervision and direction of an approved medical program director, to participate in a community assistance referral and education services program established under RCW 35.21.930 if the participation does not exceed the participant's training and certification.

(13) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

(14) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with statewide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

(15) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

(16) "Secretary" means the secretary of the department of health.

(17) "Stretcher" means a cart designed to serve as a litter for the transportation of a patient in a prone or supine position as is commonly used in the ambulance industry, such as wheeled stretchers, portable stretchers, stair chairs, solid backboards, scoop stretchers, basket stretchers, or flexible stretchers. The term does not include personal mobility aids that recline at an angle or remain at a flat position, that are owned or leased for a period of at least one week by the individual using the equipment or the individual's guardian or representative, such as wheelchairs, personal gurneys, or banana carts. [2015 c 93 § 5. Prior: 2010 1st sp.s. c 7 § 25; 2005 c 193 § 2; 2000 c 93 § 16; 1990 c 269 § 23; 1988 c 104 § 3; 1987 c 214 § 2; 1983 c 112 § 5; 1979 ex.s. c 261 § 1; 1973 1st ex.s. c 208 § 3.]

(2016 Ed.)

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Finding—2005 c 193: "The legislature finds that requiring all patients who need to travel in a prone or supine position but are medically stable, to be transported by ambulance can be overly restrictive to individuals with disabilities. These individuals frequently travel by means of reclining wheelchairs or devices commonly referred to as banana carts. Expanding travel options for these individuals will give them greater opportunities for mobility and reduce their costs of travel." [2005 c 193 § 1.]

18.73.081 Duties of secretary—Minimum requirements to be prescribed. In addition to other duties prescribed by law, the secretary shall:

- (1) Prescribe minimum requirements for:
 - (a) Ambulance, air ambulance, and aid vehicles and equipment;
 - (b) Ambulance and aid services; and
 - (c) Minimum emergency communication equipment;
- (2) Adopt procedures for services that fail to perform in accordance with minimum requirements;
- (3) Prescribe minimum standards for first responder and emergency medical technician training including:
 - (a) Adoption of curriculum and period of certification;
 - (b) Procedures for certification, recertification, decertification, or modification of certificates;
 - (c) Adoption of requirements for ongoing training and evaluation, as approved by the county medical program director, to include appropriate evaluation for individual knowledge and skills. The first responder, emergency medical technician, or emergency medical services provider agency may elect a program of continuing education and a written and practical examination instead of meeting the ongoing training and evaluation requirements;
 - (d) Procedures for reciprocity with other states or national certifying agencies;
 - (e) Review and approval or disapproval of training programs; and
 - (f) Adoption of standards for numbers and qualifications of instructional personnel required for first responder and emergency medical technician training programs;
- (4) Prescribe minimum requirements for liability insurance to be carried by licensed services except that this requirement shall not apply to public bodies; and
- (5) Certify emergency medical program directors. [1993 c 254 § 1; 1990 c 269 § 24; 1988 c 111 § 1; 1987 c 214 § 7.]

18.73.101 Variance from requirements. The secretary may grant a variance from a provision of this chapter and RCW 18.71.200 through 18.71.220 if no detriment to health and safety would result from the variance and compliance is expected to cause reduction or loss of existing emergency medical services. Variances may be granted for a period of no more than one year. A variance may be renewed by the secretary. [2010 1st sp.s. c 7 § 26; 2000 c 93 § 17; 1987 c 214 § 9.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

18.73.120 Certificate of advanced first aid qualification. The secretary shall recognize a current certificate of advanced first aid qualification for those who provide proof of advanced Red Cross training or its equivalent. [1979 ex.s. c 261 § 12; 1973 1st ex.s. c 208 § 12.]

18.73.130 Ambulance services and aid services—Licensing. An ambulance service or aid service may not operate in the state of Washington without holding a license for such operation, issued by the secretary when such operation is consistent with the statewide and regional emergency medical services and trauma care plans established pursuant to chapter 70.168 RCW, indicating the general area to be served and the number of vehicles to be used, with the following exceptions:

- (1) The United States government;
- (2) Ambulance services providing service in other states when bringing patients into this state;
- (3) Owners of businesses in which ambulance or aid vehicles are used exclusively on company property but occasionally in emergencies may transport patients to hospitals not on company property; and
- (4) Operators of vehicles pressed into service for transportation of patients in emergencies when licensed ambulances are not available or cannot meet overwhelming demand.

The license shall be valid for a period of two years and shall be renewed on request provided the holder has consistently complied with the regulations of the department and the department of licensing and provided also that the needs of the area served have been met satisfactorily. The license shall not be transferable and may be revoked if the service is found in violation of rules adopted by the department. [2000 c 93 § 18; 1992 c 128 § 2; 1990 c 269 § 25; 1987 c 214 § 10; 1979 ex.s. c 261 § 13; 1979 c 158 § 61; 1973 1st ex.s. c 208 § 13.]

Additional notes found at www.leg.wa.gov

18.73.140 Ambulance and aid vehicles—Licenses. The secretary shall issue an ambulance or aid vehicle license for each vehicle so designated. The license shall be for a period of two years and may be reissued on expiration if the vehicle and its equipment meet requirements in force at the time of expiration of the license period. The license may be revoked if the ambulance or aid vehicle is found to be operating in violation of the regulations promulgated by the department or without required equipment. The license shall be terminated automatically if the vehicle is sold or transferred to the control of any organization not currently licensed as an ambulance or aid vehicle service. The license number shall be prominently displayed on each vehicle. [2000 c 93 § 19; 1992 c 128 § 3; 1987 c 214 § 11; 1979 ex.s. c 261 § 14; 1973 1st ex.s. c 208 § 14.]

Additional notes found at www.leg.wa.gov

18.73.145 Ambulance and aid vehicles—Self-inspection program. The secretary shall adopt a self-inspection program to assure compliance with minimum standards for vehicles and for medical equipment and personnel on all licensed vehicles. The self-inspection shall coincide with the vehicle licensing cycle and shall be recorded on forms provided by the department. The department may perform an on-site inspection of any licensed service or vehicles as needed. [1987 c 214 § 13.]

18.73.150 Ambulance personnel requirements. Any ambulance operated as such shall operate with sufficient per-

sonnel for adequate patient care, at least one of whom shall be an emergency medical technician under standards promulgated by the secretary. The emergency medical technician shall have responsibility for its operation and for the care of patients both before they are placed aboard the vehicle and during transit. If there are two or more emergency medical technicians operating the ambulance, a nondriving medical technician shall be in command of the vehicle. The emergency medical technician in command of the vehicle shall be in the patient compartment and in attendance to the patient.

The driver of the ambulance shall have at least a certificate of advance first aid qualification recognized by the secretary pursuant to RCW 18.73.120 unless there are at least two certified emergency medical technicians in attendance of the patient, in which case the driver shall not be required to have such certificate. [1992 c 128 § 4; 1979 ex.s. c 261 § 15; 1973 1st ex.s. c 208 § 15.]

Additional notes found at www.leg.wa.gov

18.73.155 Requirements—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 7.]

18.73.170 Aid vehicles—Personnel—Use. The aid vehicle shall be operated in accordance with standards promulgated by the secretary, by at least one person holding a certificate recognized under RCW 18.73.120.

The aid vehicle may be used for transportation of patients only when it is impossible or impractical to obtain an ambulance or when a wait for arrival of an ambulance would place the life of the patient in jeopardy. If so used, the vehicle shall be under the command of a person holding a certificate recognized pursuant to RCW 18.73.081 other than the driver. [1987 c 214 § 12; 1979 ex.s. c 261 § 17; 1973 1st ex.s. c 208 § 17.]

Additional notes found at www.leg.wa.gov

18.73.180 Other transportation vehicles. Other vehicles not herein defined by this chapter shall not be used for transportation of patients who must be carried on a stretcher or who may require medical attention en route, except that such transportation may be used when:

- (1) A disaster creates a situation that cannot be served by licensed ambulances; or
- (2) The use of a stretcher is necessary because an individual's personal mobility aid cannot be adequately secured in the nonambulance vehicle and the individual has written authorization from his or her physician that it is safe to transfer the individual from a personal mobility aid to a stretcher. [2007 c 305 § 1; 1987 c 214 § 14; 1979 ex.s. c 261 § 18; 1973 1st ex.s. c 208 § 18.]

Additional notes found at www.leg.wa.gov

18.73.190 Violations—Penalties. Any person who violates any of the provisions of this chapter and for which a penalty is not provided shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars for each day of the

violation, or may be imprisoned in the county jail not exceeding six months. [1987 c 214 § 15; 1973 1st ex.s. c 208 § 19.]

Additional notes found at www.leg.wa.gov

18.73.200 Administrative procedure act applicable.

The administrative procedure act, chapter 34.05 RCW, shall wherever applicable govern the rights, remedies, and procedures respecting the administration of this chapter. [1973 1st ex.s. c 208 § 21.]

18.73.240 Application of uniform disciplinary act.

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 secretary shall act as the disciplinary authority under this chapter. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible. [1992 c 128 § 5.]

18.73.250 Epinephrine—Availability—Administration. (1) All of the state's ambulance and aid services shall make epinephrine available to their emergency medical technicians in their emergency care supplies. The emergency medical technician may administer epinephrine.

(2) Nothing in this section authorizes the administration of epinephrine by a first responder. [2005 c 463 § 1; 2001 c 24 § 1; 1999 c 337 § 4.]

Findings—Purpose—1999 c 337: "The legislature finds that allergies are a serious medical disorder that affect more than one in five persons in the United States and are the sixth leading cause of chronic disease. Anaphylaxis is the most severe form of allergic reaction. Rapid and appropriate administration of the drug epinephrine to a patient suffering an anaphylaxis allergic reaction may make the difference between the life and death of that patient. The legislature further finds that some situations may arise when the administration of epinephrine by an emergency medical technician is required to save a person's life and that it is paramount that these valuable emergency response personnel receive the appropriate training on the use of epinephrine to treat anaphylaxis.

It is the purpose of chapter 337, Laws of 1999 to investigate the rate of anaphylaxis statewide and the training and care standards needed to allow emergency medical technicians to administer lifesaving epinephrine." [1999 c 337 § 1.]

Additional notes found at www.leg.wa.gov

18.73.260 Guidelines. (1) The department of health shall convene a stakeholder group including the department of social and health services, the department of transportation, and local special needs transportation providers who shall assist in the development of guidelines for the safe transport of individuals who rely on stretchers and personal mobility devices.

(2) The department of health shall prepare guidelines for the public and vehicle operators relating to:

(a) Appropriate situations in which vehicles other than ambulances may be used to transport individuals who rely upon personal mobility aids in the normal course of their lives; and

(b) Methods for properly securing personal mobility aids on vehicles other than ambulances and determining if they are adequately secured. [2007 c 305 § 2.]

(2016 Ed.)

18.73.270 Disclosure of information by emergency medical personnel—Violent injuries—Immunity. (1) Except when treatment is provided in a hospital licensed under chapter 70.41 RCW, a *physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder who renders treatment to a patient for (a) a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm; (b) an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person; (c) a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act; or (d) injuries sustained in an automobile collision, shall disclose without the patient's authorization, upon a request from a federal, state, or local law enforcement authority as defined in **RCW 70.02.010(3), the following information, if known:

- (i) The name of the patient;
- (ii) The patient's residence;
- (iii) The patient's sex;
- (iv) The patient's age;
- (v) The patient's condition or extent and location of injuries as determined by the *physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder;
- (vi) Whether the patient was conscious when contacted;
- (vii) Whether the patient appears to have consumed alcohol or appears to be under the influence of alcohol or drugs;
- (viii) The name or names of the *physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder who provided treatment to the patient; and
- (ix) The name of the facility to which the patient is being transported for additional treatment.

(2) A *physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, first responder, or other individual who discloses information pursuant to this section is immune from civil or criminal liability or professional licensure action for the disclosure, provided that the *physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, first responder, or other individual acted in good faith and without gross negligence or willful or wanton misconduct.

(3) The obligation to provide information pursuant to this section is secondary to patient care needs. Information must be provided as soon as reasonably possible taking into consideration a patient's emergency care needs.

(4) For purposes of this section, "a *physician's trained emergency medical service intermediate life support technician and paramedic" has the same meaning as in RCW 18.71.200. [2009 c 359 § 1.]

Reviser's note: *(1) The term "physician's trained emergency medical service intermediate life support technician and paramedic" was changed to "physician's trained advanced emergency medical technician and paramedic" by 2015 c 93 § 2.

** (2) RCW 70.02.010 was amended by 2013 c 200 § 1, changing subsection (3) to subsection (12), effective July 1, 2014.

18.73.280 Ambulance service—Transport of patients to a nonmedical facility. An ambulance service may transport patients to a nonmedical facility, such as a mental health facility or chemical dependency program as authorized in regional emergency medical services and trauma care plans under RCW 70.168.100. [2015 c 157 § 4.]

18.73.910 Effective dates—1973 1st ex.s. c 208. The provisions of sections 1 through 8, inclusive, 11, 12, 20, 21, 22, and 23 of this 1973 act shall take effect on July 1, 1973. The provisions of sections 9, 10, and 13 through 19, inclusive, shall take effect on January 1, 1976. [1973 1st ex.s. c 208 § 22.]

Chapter 18.74 RCW PHYSICAL THERAPY

Sections

18.74.005	Purpose of chapter.
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Lien of doctors: Chapter 60.44 RCW.

18.74.005 Purpose of chapter. The purpose of this chapter is to protect the public health, safety, and welfare, and to provide for state administrative control, supervision, licensure, and regulation of the practice of physical therapy. It is the intent of the legislature that only individuals who

meet and maintain prescribed standards of competence and conduct be allowed to engage in the practice of physical therapy as defined and authorized by this chapter. [2005 c 501 § 1; 1983 c 116 § 1.]

18.74.010 Definitions. (Effective until July 1, 2017.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners: PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws.

(2) "Board" means the board of physical therapy created by RCW 18.74.020.

(3) "Close supervision" means that the supervisor has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervisor is continuously on-site and physically present in the operatory while the procedures are performed and capable of responding immediately in the event of an emergency.

(4) "Department" means the department of health.

(5) "Direct supervision" means the supervisor must (a) be continuously on-site and present in the department or facility where the person being supervised is performing services; (b) be immediately available to assist the person being supervised in the services being performed; and (c) maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel or is required to be directly supervised under RCW 18.74.190.

(6) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires and consistent with the particular delegated health care task.

(7) "Physical therapist" means a person who meets all the requirements of this chapter and is licensed in this state to practice physical therapy.

(8)(a) "Physical therapist assistant" means a person who meets all the requirements of this chapter and is licensed as a physical therapist assistant and who performs physical therapy procedures and related tasks that have been selected and delegated only by the supervising physical therapist. However, a physical therapist may not delegate sharp debridement to a physical therapist assistant.

(b) "Physical therapy aide" means a person who is involved in direct physical therapy patient care who does not meet the definition of a physical therapist or physical therapist assistant and receives ongoing on-the-job training.

(c) "Other assistive personnel" means other trained or educated health care personnel, not defined in (a) or (b) of this subsection, who perform specific designated tasks related to physical therapy under the supervision of a physical therapist, including but not limited to licensed massage practitioners, athletic trainers, and exercise physiologists. At the direction of the supervising physical therapist, and if properly credentialed and not prohibited by any other law,

other assistive personnel may be identified by the title specific to their training or education.

(9) "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist licensed by the state. Except as provided in RCW 18.74.190, the use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the use of spinal manipulation, or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(10) "Practice of physical therapy" is based on movement science and means:

(a) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement, and disability or other health and movement-related conditions in order to determine a diagnosis, prognosis, plan of therapeutic intervention, and to assess and document the ongoing effects of intervention;

(b) Alleviating impairments and functional limitations in movement by designing, implementing, and modifying therapeutic interventions that include therapeutic exercise; functional training related to balance, posture, and movement to facilitate self-care and reintegration into home, community, or work; manual therapy including soft tissue and joint mobilization and manipulation; therapeutic massage; assistive, adaptive, protective, and devices related to postural control and mobility except as restricted by (c) of this subsection; airway clearance techniques; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction;

(c) Training for, and the evaluation of, the function of a patient wearing an orthosis or prosthesis as defined in RCW 18.200.010. Physical therapists may provide those direct-formed and prefabricated upper limb, knee, and ankle-foot orthoses, but not fracture orthoses except those for hand, wrist, ankle, and foot fractures, and assistive technology devices specified in RCW 18.200.010 as exemptions from the defined scope of licensed orthotic and prosthetic services. It is the intent of the legislature that the unregulated devices specified in RCW 18.200.010 are in the public domain to the extent that they may be provided in common with individuals or other health providers, whether unregulated or regulated under Title 18 RCW, without regard to any scope of practice;

(d) Performing wound care services that are limited to sharp debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, hydrotherapy, electrical stimulation, ultrasound, and other similar treatments. Physical therapists may not delegate sharp debridement. A physical therapist may perform wound care services only by referral from or after consultation with an authorized health care practitioner;

(e) Reducing the risk of injury, impairment, functional limitation, and disability related to movement, including the promotion and maintenance of fitness, health, and quality of life in all age populations; and

(f) Engaging in administration, consultation, education, and research.

(11) "Secretary" means the secretary of health.

(12) "Sharp debridement" means the removal of devitalized tissue from a wound with scissors, scalpel, and tweezers without anesthesia. "Sharp debridement" does not mean surgical debridement. A physical therapist may perform sharp debridement, to include the use of a scalpel, only upon showing evidence of adequate education and training as established by rule. Until the rules are established, but no later than July 1, 2006, physical therapists licensed under this chapter who perform sharp debridement as of July 24, 2005, shall submit to the secretary an affidavit that includes evidence of adequate education and training in sharp debridement, including the use of a scalpel.

(13) "Spinal manipulation" includes spinal manipulation, spinal manipulative therapy, high velocity thrust maneuvers, and grade five mobilization of the spine and its immediate articulations.

(14) Words importing the masculine gender may be applied to females. [2014 c 116 § 3; 2007 c 98 § 1; 2005 c 501 § 2; 1997 c 275 § 8; 1991 c 12 § 1; (1991 c 3 §§ 172, 173 repealed by 1991 sp.s. c 11 § 2); (1990 c 297 § 17 repealed by 1991 c 12 § 6); 1988 c 185 § 1; 1983 c 116 § 2; 1961 c 64 § 1; 1949 c 239 § 1; Rem. Supp. 1949 § 10163-1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2014 c 116: See note following RCW 18.74.190.

Number and gender: RCW 1.12.050.

Additional notes found at www.leg.wa.gov

18.74.010 Definitions. (Effective July 1, 2017.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners: PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws.

(2) "Board" means the board of physical therapy created by RCW 18.74.020.

(3) "Close supervision" means that the supervisor has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervisor is continuously on-site and physically present in the operatory while the procedures are performed and capable of responding immediately in the event of an emergency.

(4) "Department" means the department of health.

(5) "Direct supervision" means the supervisor must (a) be continuously on-site and present in the department or facility where the person being supervised is performing services; (b) be immediately available to assist the person being supervised in the services being performed; and (c) maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel or is required to be directly supervised under RCW 18.74.190.

(6) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health

care practice requires and consistent with the particular delegated health care task.

(7) "Physical therapist" means a person who meets all the requirements of this chapter and is licensed in this state to practice physical therapy.

(8)(a) "Physical therapist assistant" means a person who meets all the requirements of this chapter and is licensed as a physical therapist assistant and who performs physical therapy procedures and related tasks that have been selected and delegated only by the supervising physical therapist. However, a physical therapist may not delegate sharp debridement to a physical therapist assistant.

(b) "Physical therapy aide" means a person who is involved in direct physical therapy patient care who does not meet the definition of a physical therapist or physical therapist assistant and receives ongoing on-the-job training.

(c) "Other assistive personnel" means other trained or educated health care personnel, not defined in (a) or (b) of this subsection, who perform specific designated tasks related to physical therapy under the supervision of a physical therapist, including but not limited to licensed massage therapists, athletic trainers, and exercise physiologists. At the direction of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, other assistive personnel may be identified by the title specific to their training or education.

(9) "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist licensed by the state. Except as provided in RCW 18.74.190, the use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the use of spinal manipulation, or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(10) "Practice of physical therapy" is based on movement science and means:

(a) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement, and disability or other health and movement-related conditions in order to determine a diagnosis, prognosis, plan of therapeutic intervention, and to assess and document the ongoing effects of intervention;

(b) Alleviating impairments and functional limitations in movement by designing, implementing, and modifying therapeutic interventions that include therapeutic exercise; functional training related to balance, posture, and movement to facilitate self-care and reintegration into home, community, or work; manual therapy including soft tissue and joint mobilization and manipulation; therapeutic massage; assistive, adaptive, protective, and devices related to postural control and mobility except as restricted by (c) of this subsection; airway clearance techniques; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction;

(c) Training for, and the evaluation of, the function of a patient wearing an orthosis or prosthesis as defined in RCW 18.200.010. Physical therapists may provide those direct-formed and prefabricated upper limb, knee, and ankle-foot orthoses, but not fracture orthoses except those for hand,

wrist, ankle, and foot fractures, and assistive technology devices specified in RCW 18.200.010 as exemptions from the defined scope of licensed orthotic and prosthetic services. It is the intent of the legislature that the unregulated devices specified in RCW 18.200.010 are in the public domain to the extent that they may be provided in common with individuals or other health providers, whether unregulated or regulated under this title, without regard to any scope of practice;

(d) Performing wound care services that are limited to sharp debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, hydrotherapy, electrical stimulation, ultrasound, and other similar treatments. Physical therapists may not delegate sharp debridement. A physical therapist may perform wound care services only by referral from or after consultation with an authorized health care practitioner;

(e) Reducing the risk of injury, impairment, functional limitation, and disability related to movement, including the promotion and maintenance of fitness, health, and quality of life in all age populations; and

(f) Engaging in administration, consultation, education, and research.

(11) "Secretary" means the secretary of health.

(12) "Sharp debridement" means the removal of devitalized tissue from a wound with scissors, scalpel, and tweezers without anesthesia. "Sharp debridement" does not mean surgical debridement. A physical therapist may perform sharp debridement, to include the use of a scalpel, only upon showing evidence of adequate education and training as established by rule. Until the rules are established, but no later than July 1, 2006, physical therapists licensed under this chapter who perform sharp debridement as of July 24, 2005, shall submit to the secretary an affidavit that includes evidence of adequate education and training in sharp debridement, including the use of a scalpel.

(13) "Spinal manipulation" includes spinal manipulation, spinal manipulative therapy, high velocity thrust maneuvers, and grade five mobilization of the spine and its immediate articulations.

(14) Words importing the masculine gender may be applied to females. [2016 c 41 § 16. Prior: 2014 c 116 § 3; 2007 c 98 § 1; 2005 c 501 § 2; 1997 c 275 § 8; 1991 c 12 § 1; (1991 c 3 §§ 172, 173 repealed by 1991 sp.s. c 11 § 2); (1990 c 297 § 17 repealed by 1991 c 12 § 6); 1988 c 185 § 1; 1983 c 116 § 2; 1961 c 64 § 1; 1949 c 239 § 1; Rem. Supp. 1949 § 10163-1.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Effective date—2014 c 116: See note following RCW 18.74.190.

Number and gender: RCW 1.12.050.

Additional notes found at www.leg.wa.gov

18.74.012 Consultation with health care practitioner not required for certain treatments. A consultation and periodic review by an authorized health care practitioner is not required for treatment of neuromuscular or musculoskeletal conditions. [2005 c 501 § 3; 2000 c 171 § 24; 1991 c 12 § 2; 1990 c 297 § 19; 1988 c 185 § 2.]

Additional notes found at www.leg.wa.gov

18.74.015 Referral to health care practitioners—When required. (1) Physical therapists shall refer persons under their care to authorized health care practitioners if they have reasonable cause to believe symptoms or conditions are present which require services beyond the scope of their practice or for which physical therapy is contraindicated.

(2) A violation of this section is unprofessional conduct under this chapter and chapter 18.130 RCW. [1988 c 185 § 3.]

18.74.020 Board created—Members—Staff assistance—Compensation and travel expenses. The state board of physical therapy is hereby created. The board shall consist of six members who shall be appointed by the governor. Of the initial appointments, two shall be appointed for a term of two years, two for a term of three years, and one for a term of four years. Thereafter, all appointments shall be for terms of four years. Four members of the board shall be physical therapists licensed under this chapter and residing in this state, shall have not less than five years' experience in the practice of physical therapy, and shall be actively engaged in practice within two years of appointment. One member shall be a physical therapist assistant licensed under this chapter and residing in this state, shall not have less than five years' experience in the practice of physical therapy, and shall be actively engaged in practice within two years of appointment. The sixth member shall be appointed from the public at large, shall have an interest in the rights of consumers of health services, and shall not be or have been a member of any other licensing board, a licensee of any health occupation board, an employee of any health facility nor derive his or her primary livelihood from the provision of health services at any level of responsibility. In the event that a member of the board for any reason cannot complete his or her term of office, another appointment shall be made by the governor in accordance with the procedure stated in this section to fill the remainder of the term. No member may serve for more than two successive four-year terms.

The secretary of health shall furnish such secretarial, clerical, and other assistance as the board may require. Each member of the board shall, in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060, be compensated in accordance with RCW 43.03.240. [2007 c 98 § 2; 1991 c 3 § 174; 1984 c 287 § 46; 1983 c 116 § 3; 1979 c 158 § 62; 1975-'76 2nd ex.s. c 34 § 44; 1949 c 239 § 2; Rem. Supp. 1949 § 10163-2.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Secretary of health or designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

Additional notes found at www.leg.wa.gov

18.74.023 Board—Powers and duties. The board has the following powers and duties:

(1) To develop and administer, or approve, or both, examinations to applicants for a license under this chapter.

(2) To pass upon the qualifications of applicants for a license and to certify to the secretary duly qualified applicants.

(2016 Ed.)

(3) To make such rules not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter.

(4) To establish and administer requirements for continuing competency, which shall be a prerequisite to renewing a license under this chapter.

(5) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

(6) To adopt rules not inconsistent with the laws of this state, when it deems appropriate, in response to questions put to it by professional health associations, physical therapists, and consumers in this state concerning the authority of physical therapists to perform particular acts.

(7) To adopt rules to define and specify the education and training requirements for physical therapist assistants and physical therapy aides. [1995 c 299 § 1; 1995 c 198 § 9. Prior: 1991 c 12 § 3; 1991 c 3 § 175; 1986 c 259 § 124; 1983 c 116 § 4.]

Reviser's note: This section was amended by 1995 c 198 § 9 and by 1995 c 299 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

18.74.025 Standards for appropriateness of physical therapy care—Violation. Pursuant to the board's power in RCW 18.74.023(3), the board is directed to adopt rules relating to standards for appropriateness of physical therapy care. Violation of the standards adopted by rule under this section is unprofessional conduct under this chapter and chapter 18.130 RCW. [1991 c 12 § 5.]

18.74.027 Board—Officers—Meetings—Quorum. The board shall elect from its members a chairperson and vice chairperson-secretary, who shall serve for one year and until their successors are elected. The board shall meet at least once a year and upon the call of the chairperson at such times and places as the chairperson designates. Three members constitute a quorum of the full board for the transaction of any business. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW. [1983 c 116 § 5.]

18.74.029 Application of Uniform Disciplinary Act. The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses and interim permits, and the discipline of licensees and holders of interim permits under this chapter. [1993 c 133 § 2; 1987 c 150 § 47; 1986 c 259 § 123.]

Additional notes found at www.leg.wa.gov

18.74.030 Qualifications of applicants. (1) An applicant for a license as a physical therapist shall have the following minimum qualifications:

(a) Be of good moral character; and

(b) Have obtained either (i) a baccalaureate degree in physical therapy from an institution of higher learning approved by the board or (ii) a baccalaureate degree from an institution of higher learning and a certificate or advanced

degree from a school of physical therapy approved by the board.

(2) An applicant for a license as a physical therapist assistant must have the following minimum qualifications:

- (a) Be of good moral character; and
- (b) Have successfully completed a board-approved physical therapist assistant program.

(3) The applicant shall present proof of qualification to the board in the manner and on the forms prescribed by the board. [2007 c 98 § 3; 1983 c 116 § 6; 1961 c 64 § 2; 1949 c 239 § 3; Rem. Supp. 1949 § 10163-3.]

18.74.033 Qualifications—Military training and experience. An applicant with military training or experience satisfies the training and experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 8.]

18.74.035 Examinations—Scope—Time and place. (1) All qualified applicants for a license as a physical therapist shall be examined by the board at such time and place as the board may determine. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities. The examination shall embrace the following subjects: The applied sciences of anatomy, neuroanatomy, kinesiology, physiology, pathology, psychology, physics; physical therapy, as defined in this chapter, applied to medicine, neurology, orthopedics, pediatrics, psychiatry, surgery; medical ethics; technical procedures in the practice of physical therapy as defined in this chapter; and such other subjects as the board may deem useful to test the applicant's fitness to practice physical therapy. Examinations shall be held within the state at least once a year, at such time and place as the board shall determine. An applicant who fails an examination may apply for reexamination upon payment of a reexamination fee determined by the secretary.

(2) All qualified applicants for a license as a physical therapist assistant must be examined by the board at such a time and place as the board may determine. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities. [2014 c 116 § 4; 2007 c 98 § 4; 1995 c 198 § 10; 1991 c 3 § 176; 1983 c 116 § 7; 1961 c 64 § 3.]

Effective date—2014 c 116: See note following RCW 18.74.190.

18.74.038 Physical therapist assistants—Waiver of examination. The board shall waive the examination and grant a license to a person who meets the commonly accepted standards for practicing as a physical therapist assistant, as adopted by rule. Persons eligible for licensure as a physical therapist assistant under this section must apply for a license within one year of July 1, 2008. [2007 c 98 § 7.]

18.74.040 Licenses. (1) The secretary shall license as a physical therapist, and shall furnish a license to, each applicant who successfully passes the examination for licensure as a physical therapist.

(2) The secretary shall license as a physical therapist assistant, and shall furnish a license to, each applicant who

successfully passes the examination for licensure as a physical therapist assistant. [2007 c 98 § 5; 1991 c 3 § 177; 1983 c 116 § 8; 1949 c 239 § 4; Rem. Supp. 1949 § 10163-4.]

18.74.050 Licenses—Fees. The secretary shall furnish a license upon the authority of the board to any person who applies and who has qualified under the provisions of this chapter. At the time of applying, the applicant shall comply with administrative procedures, administrative requirements, and fees established pursuant to RCW 43.70.250 and 43.70.280. No person registered or licensed on July 24, 1983, as a physical therapist shall be required to pay an additional fee for a license under this chapter. [1996 c 191 § 59; 1991 c 3 § 178; 1985 c 7 § 63; 1983 c 116 § 9; 1975 1st ex.s. c 30 § 65; 1961 c 64 § 4; 1949 c 239 § 5; Rem. Supp. 1949 § 10163-5.]

18.74.060 Licensure by endorsement. Upon the recommendation of the board, the secretary shall license as a physical therapist or physical therapist assistant and shall furnish a license to any person who is a physical therapist or physical therapist assistant registered, certified, or licensed under the laws of another state or territory, or the District of Columbia, if the qualifications for such registration, certification, or license required of the applicant were substantially equal to the requirements under this chapter. At the time of making application, the applicant shall comply with administrative procedures, administrative requirements, and fees established pursuant to RCW 43.70.250 and 43.70.280. [2007 c 98 § 6; 1996 c 191 § 60; 1991 c 3 § 179; 1985 c 7 § 64; 1983 c 116 § 10; 1975 1st ex.s. c 30 § 66; 1961 c 64 § 5; 1949 c 239 § 6; Rem. Supp. 1949 § 10163-6.]

18.74.065 Licenses—Issuance to persons licensed or registered before July 24, 1983. Any person holding a valid license or certificate of registration to practice physical therapy issued by authority of this state prior to July 24, 1983, shall be issued a license under this chapter. [1983 c 116 § 11.]

18.74.070 Renewal of license. Every licensed physical therapist and physical therapist assistant shall apply to the secretary for a renewal of the license and pay to the state treasurer a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. [2007 c 98 § 8; 1996 c 191 § 61; 1991 c 3 § 180; 1983 c 116 § 12; 1975 1st ex.s. c 30 § 67; 1971 ex.s. c 266 § 13; 1961 c 64 § 6; 1949 c 239 § 7; Rem. Supp. 1949 § 10163-7.]

18.74.073 Licenses—Inactive status—Fees. Any physical therapist or physical therapist assistant licensed under this chapter not practicing physical therapy or providing services may place his or her license in an inactive status. The board shall prescribe requirements for maintaining an inactive status and converting from an inactive or active status. The secretary may establish fees for alterations in license status. [2007 c 98 § 9; 1998 c 143 § 1.]

18.74.075 Interim permits. (1) The department, upon approval by the board, shall issue an interim permit authorizing an applicant for licensure who meets the minimum quali-

fications stated in RCW 18.74.030 to practice physical therapy under graduate supervision pending notification of the results of the first licensure examination for which the applicant is eligible, but not to exceed six months.

(2) For purposes of this section, "graduate supervision" means supervision of a holder of an interim permit by a licensed physical therapist who is on the premises at all times. Graduate supervision shall include consultation regarding evaluation, treatment plan, treatment program, and progress of each assigned patient at appropriate intervals and be documented by cosignature of notes by the licensed physical therapist. RCW 18.74.012 is not applicable for holders of interim permits.

(3) If the holder of the interim permit fails the examination, the permit expires upon notification and is not renewable. [1993 c 133 § 1.]

18.74.085 Types of advertising prohibited. (1) Physical therapists shall not advertise that they perform spinal manipulation, manipulative mobilization of the spine, chiropractic adjustment, spinal adjustment, maintenance or wellness manipulation, or chiropractic care of any kind.

(2) A violation of this section is unprofessional conduct under this chapter and chapter 18.130 RCW. [2014 c 116 § 5; 1988 c 185 § 4.]

Effective date—2014 c 116: See note following RCW 18.74.190.

18.74.090 False advertising—Use of name and words—License required—Prosecutions of violations.

(1) A person who is not licensed with the secretary of health as a physical therapist under the requirements of this chapter shall not represent him or herself as being so licensed and shall not use in connection with his or her 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 or she 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 or her county. The attorney general may assist in such prosecution and shall appear at all hearings when requested to do so by the board.

(2) No person assisting in the practice of physical therapy may use the title "physical therapist assistant," the letters "PTA," or any other words, abbreviations, or insignia in connection with his or her name to indicate or imply, directly or indirectly, that he or she is a physical therapist assistant without being licensed in accordance with this chapter as a physical therapist assistant. [2007 c 98 § 10; 1991 c 3 § 181; 1987 c 150 § 48; 1986 c 259 § 125; 1983 c 116 § 18; 1961 c 64 § 8; 1949 c 239 § 9; Rem. Supp. 1949 § 10163-9.]

False advertising: Chapter 9.04 RCW.

Additional notes found at www.leg.wa.gov

18.74.095 False advertising—Injunctions. If any person violates the provisions of this chapter, the attorney general, prosecuting attorney, the secretary, the board, or any citizen of the same county, may maintain an action in the name

of the state to enjoin such person from practicing or holding himself or herself out as practicing physical therapy. The injunction shall not relieve criminal prosecution but the remedy by injunction shall be in addition to the liability of such offender for criminal prosecution and the suspension or revocation of his or her license. [1991 c 3 § 182; 1983 c 116 § 19; 1961 c 64 § 9.]

18.74.120 Record of proceedings—Register. The secretary of health shall keep a record of proceedings under this chapter and a register of all persons licensed under it. The register shall show the name of every living licensed physical therapist and physical therapist assistant, his or her last known place of residence, and the date and number of his or her license as a physical therapist or physical therapist assistant. [2007 c 98 § 11; 1991 c 3 § 183; 1983 c 116 § 21; 1979 c 158 § 63; 1977 c 75 § 11; 1949 c 239 § 12; Rem. Supp. 1949 § 10163-12.]

18.74.125 Construction of chapter—Activities not prohibited—Use of letters or words in connection with name. Nothing in this chapter shall prohibit any person licensed in this state under any other act from engaging in the practice for which he or she is licensed. Nothing in this chapter shall prohibit any person who, at any time prior to January 1, 1961, was practicing any healing or manipulative art in the state of Washington and designating the same as physical therapy or physiotherapy, from continuing to do so after the passage of this amendatory act: PROVIDED, That no such person shall represent himself or herself as being registered and shall not use in connection with his or her name the words or letters "registered" or "licensed" or "R.P.T." [2011 c 336 § 498; 1961 c 64 § 10.]

Reviser's note: The language "after the passage of this amendatory act" refers to chapter 64, Laws of 1961 which passed the House March 1, 1961, passed the Senate February 27, 1961, approved by the governor March 6, 1961, and became effective at midnight June 7, 1961.

18.74.128 Construction of chapter—Health carrier contracts with physical therapist assistants. Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person licensed as a physical therapist assistant under this chapter. [2007 c 98 § 17.]

18.74.130 Exemptions. This chapter does not prohibit or regulate:

(1) The practice of physical therapy by students enrolled in approved schools as may be incidental to their course of study so long as such activities do not go beyond the scope of practice defined by this chapter.

(2) Auxiliary services provided by physical therapy aides carrying out duties necessary for the support of physical therapy including those duties which involve minor physical therapy services when performed under the direct supervision of licensed physical therapists so long as such activities do not go beyond the scope of practice defined by this chapter.

(3) The practice of physical therapy by licensed or registered physical therapists of other states or countries while appearing as clinicians of bona fide educational seminars sponsored by physical therapy, medical, or other healing art

professional associations so long as such activities do not go beyond the scope of practice defined by this chapter.

(4) The practice of physical therapists and physical therapist assistants in the armed services or employed by any other branch of the federal government. [2007 c 98 § 12; 1983 c 116 § 22.]

18.74.135 Insurance coverage and benefits not required or regulated. This chapter shall not be construed to restrict the ability of any insurance entity regulated by Title 48 RCW, or any state agency or program from limiting or controlling the utilization of physical therapy services by the use of any type of gatekeeper function; nor shall it be construed to require or prohibit that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person licensed under this chapter. For the purpose of this chapter, "gatekeeper function" means any provision in a contract which establishes a threshold requirement, such as a recommendation from a case manager or a primary care provider, which must be satisfied before a covered person is eligible to receive benefits under the contract. [1988 c 185 § 5.]

18.74.140 Practice setting not restricted. Nothing in this chapter restricts the ability of physical therapists to work in the practice setting of their choice. [1991 c 12 § 4.]

18.74.150 Unlawful activities—Persons exempt from licensure under chapter. (1) It is unlawful for any person to practice or in any manner hold himself or herself out to practice physical therapy or designate himself or herself as a physical therapist or physical therapist assistant, unless he or she is licensed in accordance with this chapter.

(2) This chapter does not restrict persons licensed under any other law of this state from engaging in the profession or practice for which they are licensed, if they are not representing themselves to be physical therapists, physical therapist assistants, or providers of physical therapy.

(3) The following persons are exempt from licensure as physical therapists under this chapter when engaged in the following activities:

(a) A person who is pursuing a course of study leading to a degree as a physical therapist in an approved professional education program and is satisfying supervised clinical education requirements related to his or her physical therapy education while under direct supervision of a licensed physical therapist;

(b) A physical therapist while practicing in the United States armed services, United States public health service, or veterans administration as based on requirements under federal regulations for state licensure of health care providers; and

(c) A physical therapist licensed in another United States jurisdiction, or a foreign-educated physical therapist credentialed in another country, performing physical therapy as part of teaching or participating in an educational seminar of no more than sixty days in a calendar year.

(4) The following persons are exempt from licensure as physical therapist assistants under this chapter when engaged in the following activities:

(a) A person who is pursuing a course of study leading to a degree as a physical therapist assistant in an approved professional education program and is satisfying supervised clinical education requirements related to his or her physical therapist assistant education while under direct supervision of a licensed physical therapist or licensed physical therapist assistant;

(b) A physical therapist assistant while practicing in the United States armed services, United States public health service, or veterans administration as based on requirements under federal regulations for state licensure of health care providers; and

(c) A physical therapist assistant licensed in another United States jurisdiction, or a foreign-educated physical therapist assistant credentialed in another country, or a physical therapist assistant who is teaching or participating in an educational seminar of no more than sixty days in a calendar year. [2013 c 280 § 1; 2007 c 98 § 13; 2005 c 501 § 4.]

18.74.160 Authorization to practice—Referral to appropriate practitioner—Standards of ethics—Electroneuromyographic examinations—Authorization to purchase, store, and administer certain drugs or medication.

(1) A physical therapist licensed under this chapter is fully authorized to practice physical therapy as defined in this chapter.

(2) A physical therapist shall refer persons under his or her care to appropriate health care practitioners if the physical therapist has reasonable cause to believe symptoms or conditions are present that require services beyond the scope of practice under this chapter or when physical therapy is contraindicated.

(3) Physical therapists and physical therapist assistants shall adhere to the recognized standards of ethics of the physical therapy profession and as further established by rule.

(4) A physical therapist may perform electroneuromyographic examinations for the purpose of testing neuromuscular function only by referral from an authorized health care practitioner identified in *RCW 18.74.010(7) and only upon demonstration of further education and training in electroneuromyographic examinations as established by rule. Within two years after July 1, 2005, the secretary shall waive the requirement for further education and training for those physical therapists licensed under this chapter who perform electroneuromyographic examinations.

(5) A physical therapist licensed under this chapter may purchase, store, and administer medications such as hydrocortisone, fluocinonide, topical anesthetics, silver sulfadiazine, lidocaine, magnesium sulfate, zinc oxide, and other similar medications, and may administer such other drugs or medications as prescribed by an authorized health care practitioner for the practice of physical therapy. A pharmacist who dispenses such drugs to a licensed physical therapist is not liable for any adverse reactions caused by any method of use by the physical therapist. [2007 c 98 § 14; 2005 c 501 § 5.]

*Reviser's note: RCW 18.74.010 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (7) to subsection (1), effective July 1, 2015.

18.74.170 Delegation. (1) Physical therapists are responsible for patient care given by assistive personnel under their supervision. A physical therapist may delegate to assistive personnel and supervise selected acts, tasks, or procedures that fall within the scope of physical therapy practice but do not exceed the education or training of the assistive personnel.

(2) Nothing in this chapter may be construed to prohibit other licensed health care providers from using the services of physical therapist assistants, as long as the title "physical therapist assistant" is not used in violation of RCW 18.74.090, physical therapist aides, or other assistive personnel as long as the licensed health care provider is responsible for the activities of such assistants, aides, and other personnel and provides appropriate supervision. [2007 c 98 § 15; 2005 c 501 § 6.]

18.74.180 Professional and legal responsibility—Supervision of assistive personnel. A physical therapist is professionally and legally responsible for patient care given by assistive personnel under his or her supervision. If a physical therapist fails to adequately supervise patient care given by assistive personnel, the board may take disciplinary action against the physical therapist.

(1) Regardless of the setting in which physical therapy services are provided, only the licensed physical therapist may perform the following responsibilities:

- (a) Interpretation of referrals;
- (b) Initial examination, problem identification, and diagnosis for physical therapy;
- (c) Development or modification of a plan of care that is based on the initial examination and includes the goals for physical therapy intervention;
- (d) Determination of which tasks require the expertise and decision-making capacity of the physical therapist and must be personally rendered by the physical therapist, and which tasks may be delegated;
- (e) Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;
- (f) Delegation and instruction of the services to be rendered by the physical therapist, physical therapist assistant, or physical therapy aide including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures;
- (g) Timely review of documentation, reexamination of the patient, and revision of the plan of care when indicated;
- (h) Establishment of a discharge plan.

(2) Supervision requires that the patient reevaluation is performed:

- (a) Every fifth visit, or if treatment is performed more than five times per week, reevaluation must be performed at least once a week;
- (b) When there is any change in the patient's condition not consistent with planned progress or treatment goals.

(3) Supervision of assistive personnel means:

- (a) Physical therapist assistants may function under direct or indirect supervision;
- (b) Physical therapy aides must function under direct supervision;

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(c)(i) The physical therapist may supervise a total of two assistive personnel at any one time.

(ii) In addition to the two assistive personnel authorized in (c)(i) of this subsection, the physical therapist may supervise a total of two persons who are pursuing a course of study leading to a degree as a physical therapist or a physical therapist assistant. [2013 c 280 § 2; 2007 c 98 § 16.]

18.74.190 Spinal manipulation—Endorsement. (*Effective until July 1, 2020.*) (1) Subject to the limitations of this section, a physical therapist may perform spinal manipulation only after being issued a spinal manipulation endorsement by the secretary. The secretary, upon approval by the board, shall issue an endorsement to a physical therapist who has at least one year of full-time, orthopedic, post-graduate practice experience that consists of direct patient care and averages at least thirty-six hours a week and who provides evidence in a manner acceptable to the board of all of the following additional requirements:

- (a) Training in differential diagnosis of no less than one hundred hours outlined within a course curriculum;
- (b) Didactic and practical training related to the delivery of spinal manipulative procedures of no less than two hundred fifty hours clearly delineated and outlined in a course curriculum;

(c) Specific training in spinal diagnostic imaging of no less than one hundred fifty hours outlined in a course curriculum; and

(d) At least three hundred hours of supervised clinical practical experience in spinal manipulative procedures. The supervised clinical practical experience must:

- (i) Be supervised by a clinical supervisor who:
 - (A) Holds a spinal manipulation endorsement under this section;
 - (B) Is a licensed chiropractor or osteopathic physician and surgeon; or
 - (C) Holds an endorsement or advanced certification the training requirements for which are commensurate with the training requirements in this section;

(ii) Be under the close supervision of the clinical supervisor for a minimum of the first one hundred fifty hours of the supervised clinical practical experience, after which the supervised clinical practical experience must be under the direct supervision of the clinical supervisor;

(iii) Be completed within eighteen months of completing the educational requirements in (a) through (c) of this subsection, unless the physical therapist has completed the educational requirements in (a) through (c) of this subsection prior to July 1, 2015, in which case the supervised clinical practical experience must be completed by January 1, 2017.

(2) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section shall consult with a health care practitioner, other than a physical therapist, authorized to perform spinal manipulation if spinal manipulative procedures are required beyond six treatments.

(3) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section may not:

- (a) Have a practice in which spinal manipulation constitutes the majority of the services provided;
- (b) Practice or utilize chiropractic manipulative therapy in any form;

(c) Delegate spinal manipulation; or

(d) Bill a health carrier for spinal manipulation separately from, or in addition to, other physical therapy procedures.

(4) A physical therapist holding a spinal manipulation endorsement under this section shall complete at least ten hours of continuing education per continuing competency reporting period directly related to spinal manipulation. At least five hours of the training required under this subsection must be related to procedural technique and application of spinal manipulation.

(5) If a physical therapist is intending to perform spinal manipulation on a patient who the physical therapist knows is being treated by a chiropractor for the same diagnosis, the physical therapist shall make reasonable efforts to coordinate patient care with the chiropractor to prevent conflict or duplication of services.

(6) By November 15, 2019, the board shall report to the legislature any disciplinary actions taken against physical therapists whose performance of spinal manipulation and manipulative mobilization of the spine and its immediate articulations resulted in physical harm to a patient. Prior to finalizing the report required under this subsection, the board shall consult with the chiropractic quality assurance commission. [2014 c 116 § 1.]

Effective date—2014 c 116: "Except for section 2 of this act, this act takes effect July 1, 2015." [2014 c 116 § 6.]

18.74.190 Spinal manipulation—Endorsement. (Effective July 1, 2020.) (1) Subject to the limitations of this section, a physical therapist may perform spinal manipulation only after being issued a spinal manipulation endorsement by the secretary. The secretary, upon approval by the board, shall issue an endorsement to a physical therapist who has at least one year of full-time, orthopedic, postgraduate practice experience that consists of direct patient care and averages at least thirty-six hours a week and who provides evidence in a manner acceptable to the board of all of the following additional requirements:

(a) Training in differential diagnosis of no less than one hundred hours outlined within a course curriculum;

(b) Didactic and practical training related to the delivery of spinal manipulative procedures of no less than two hundred fifty hours clearly delineated and outlined in a course curriculum;

(c) Specific training in spinal diagnostic imaging of no less than one hundred fifty hours outlined in a course curriculum; and

(d) At least three hundred hours of supervised clinical practical experience in spinal manipulative procedures. The supervised clinical practical experience must:

(i) Be supervised by a clinical supervisor who:

(A) Holds a spinal manipulation endorsement under this section; or

(B) Is a licensed chiropractor or osteopathic physician and surgeon;

(ii) Be under the close supervision of the clinical supervisor for a minimum of the first one hundred fifty hours of the supervised clinical practical experience, after which the supervised clinical practical experience must be under the direct supervision of the clinical supervisor;

(iii) Be completed within eighteen months of completing the educational requirements in (a) through (c) of this subsection, unless the physical therapist has completed the educational requirements in (a) through (c) of this subsection prior to July 1, 2015, in which case the supervised clinical practical experience must be completed by January 1, 2017.

(2) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section shall consult with a health care practitioner, other than a physical therapist, authorized to perform spinal manipulation if spinal manipulative procedures are required beyond six treatments.

(3) A physical therapist holding a spinal manipulation endorsement under subsection (1) of this section may not:

(a) Have a practice in which spinal manipulation constitutes the majority of the services provided;

(b) Practice or utilize chiropractic manipulative therapy in any form;

(c) Delegate spinal manipulation; or

(d) Bill a health carrier for spinal manipulation separately from, or in addition to, other physical therapy procedures.

(4) A physical therapist holding a spinal manipulation endorsement under this section shall complete at least ten hours of continuing education per continuing competency reporting period directly related to spinal manipulation. At least five hours of the training required under this subsection must be related to procedural technique and application of spinal manipulation.

(5) If a physical therapist is intending to perform spinal manipulation on a patient who the physical therapist knows is being treated by a chiropractor for the same diagnosis, the physical therapist shall make reasonable efforts to coordinate patient care with the chiropractor to prevent conflict or duplication of services.

(6) By November 15, 2019, the board shall report to the legislature any disciplinary actions taken against physical therapists whose performance of spinal manipulation and manipulative mobilization of the spine and its immediate articulations resulted in physical harm to a patient. Prior to finalizing the report required under this subsection, the board shall consult with the chiropractic quality assurance commission. [2014 c 116 § 2; 2014 c 116 § 1.]

Effective date—2014 c 116 § 2: "Section 2 of this act takes effect July 1, 2020." [2014 c 116 § 7.]

18.74.912 Effective dates—2007 c 98. (1) Sections 1 and 3 through 18 of this act take effect July 1, 2008.

(2) Section 2 of this act takes effect December 1, 2008. [2007 c 98 § 19.]

Chapter 18.76 RCW POISON INFORMATION CENTERS

Sections

18.76.010	Purpose.
18.76.020	Definitions.
18.76.030	Poison information center—Statewide program.
18.76.041	Consulting with other poison programs.
18.76.050	Rules and standards.
18.76.060	Poison center medical director—Poison information specialist—Certification required.
18.76.070	Immunity from liability.
18.76.080	Department to defend personnel.

- 18.76.090 Use of gifts and grants.
 18.76.100 Certificate suspension—Nonpayment or default on educational loan or scholarship.
 18.76.110 Certificate suspension—Noncompliance with support order—Reissuance.

18.76.010 Purpose. The legislature finds that accidental and purposeful exposure to drugs, poisons, and toxic substances continues to be a severe health problem in the state of Washington. It further finds that a significant reduction in the consequences of such accidental exposures has occurred as a result of the services provided by poison information centers.

The purpose of this chapter is to reduce morbidity and mortality associated with overdose and poisoning incidents by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care professionals, and public education and prevention programs. Further, the purpose is to improve utilization of drugs by providing information to health professionals relating to appropriate therapeutic drug use.

The legislature recognizes that enhanced cooperation between the emergency medical system and poison control centers will aid in responding to emergencies resulting from exposure to drugs, poisons, and toxic substances, and that, by providing telephone assistance to individuals with possible exposure to these substances, the need for emergency room and professional office visits will be reduced. As a result the cost of health care to those who may have exposures to drugs, poisons, and toxic substances will be avoided and appropriate treatment will be assured. [1993 c 343 § 1; 1987 c 214 § 16; 1980 c 178 § 1. Formerly RCW 18.73.210.]

18.76.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Department" means the department of health.
- (2) "Poison information center medical director" means a person who: (a) Is licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathic medicine and surgery under chapter 18.57 RCW; (b) is certified by the secretary under standards adopted under RCW 18.76.050; and (c) provides services enumerated under RCW 18.76.030, and is responsible for supervision of poison information specialists.
- (3) "Poison information specialist" means a person who provides services enumerated under RCW 18.76.030 under the supervision of a poison information center medical director and is certified by the secretary under standards adopted under RCW 18.76.050.
- (4) "Secretary" means the secretary of health. [1996 c 178 § 7; 1991 c 3 § 184; 1987 c 214 § 19.]

Additional notes found at www.leg.wa.gov

18.76.030 Poison information center—Statewide program. The department shall, in a manner consistent with this chapter, provide support for the statewide program of poison and drug information services. These services shall, no later than June 30, 1993, be centralized in and coordinated by a single nonprofit center to be located in a place determined by the secretary. The services of this center shall be:

- (1) Twenty-four hour emergency telephone management and treatment referral of victims of poisoning and overdose

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incidents, to include determining whether treatment can be accomplished at the scene of the incident or transport to an emergency treatment or other facility is required, and carrying out telephone follow-up to assure that adequate care is provided;

- (2) Providing information to health professionals involved in management of poisoning and overdose victims;

- (3) Coordination and development of community education programs designed to inform the public and members of the health professions of poison prevention and treatment methods and to improve awareness of poisoning and overdose problems, occupational risks, and environmental exposures; and

- (4) Coordination of outreach units whose primary functions shall be to inform the public about poison problems and prevention methods, how to utilize the poison center, and other toxicology issues. [1993 c 343 § 2; 1987 c 214 § 17; 1980 c 178 § 2. Formerly RCW 18.73.220.]

18.76.041 Consulting with other poison programs. The department shall establish a system for consulting with other state and local agency programs concerned with poisons and poisonings, incidents involving exposures to potentially poisonous substances, and other toxicological matters to develop the most coordinated and consistent response to such situations as is reasonably possible. [1993 c 343 § 3.]

18.76.050 Rules and standards. The secretary with the advice of the emergency medical services and trauma care steering committee established under *RCW 18.73.050 shall adopt rules, under chapter 34.05 RCW, prescribing:

- (1) Standards for the operation of a poison information center;
- (2) Standards and procedures for certification, recertification and decertification of poison center medical directors and poison information specialists; and
- (3) Standards and procedures for reciprocity with other states or national certifying agencies. [1990 c 269 § 21; 1987 c 214 § 20.]

*Reviser's note: RCW 18.73.050 was repealed by 2010 1st sp.s. c 7 § 23.

18.76.060 Poison center medical director—Poison information specialist—Certification required. (1) A person may not act as a poison center medical director or perform the duties of poison information specialists of a poison information center without being certified by the secretary under this chapter.

- (2) Notwithstanding subsection (1) of this section, if a poison center medical director terminates certification or is decertified, that poison center medical director's authority may be delegated by the department to any other person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathic medicine and surgery under chapter 18.57 RCW for a period of thirty days, or until a new poison center medical director is certified, whichever comes first. [1996 c 178 § 8; 1993 c 343 § 4; 1987 c 214 § 21.]

Additional notes found at www.leg.wa.gov

18.76.070 Immunity from liability. (1) No act done or omitted in good faith while performing duties as a poison

center medical director or poison information specialist of a poison information center shall impose any liability on the poison center, its officers, the poison center medical director, the poison information specialist, or other employees.

(2) This section:

(a) Applies only to acts or omissions committed or omitted in the performance of duties which are within the area of responsibility and expertise of the poison center medical director or poison information specialist.

(b) Does not relieve the poison center or any person from any duty imposed by law for the designation or training of a person certified under this chapter.

(c) Does not apply to any act or omission which constitutes gross negligence or wilful or wanton conduct. [1987 c 214 § 22.]

18.76.080 Department to defend personnel. The department shall defend any poison center medical director or poison information specialist for any act or omission subject to RCW 18.76.070. [1987 c 214 § 23.]

18.76.090 Use of gifts and grants. The center may receive gifts, grants, and endowments from public or private sources that may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the center and spend gifts, grants, or endowments or any income from the public or private sources according to their terms. [1993 c 343 § 5.]

18.76.100 Certificate suspension—Nonpayment or default on educational loan or scholarship. The secretary shall suspend the certificate of any person who has been certified by a lending agency and reported to the secretary for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate shall not be reissued until the person provides the secretary a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the secretary may impose. [1996 c 293 § 13.]

Additional notes found at www.leg.wa.gov

18.76.110 Certificate suspension—Noncompliance with support order—Reissuance. The department shall immediately suspend the certification of a poison center medical director or a poison information specialist who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certification shall be automatic upon the department's receipt of a release issued by the department of social and health services

stating that the person is in compliance with the order. [1997 c 58 § 825.]

*Reviser's note: 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

Chapter 18.79 RCW NURSING CARE

Sections

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18.79.900	Severability—1994 sp.s. c 9.
18.79.901	Headings and captions not law—1994 sp.s. c 9.
18.79.902	Effective date—1994 sp.s. c 9.

18.79.010 Purpose. It is the purpose of the nursing care quality assurance commission to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state of Washington. [1994 sp.s. c 9 § 401.]

18.79.020 Definitions. Unless a different meaning is plainly required by the context, the definitions set forth in this section apply throughout this chapter.

(1) "Commission" means the Washington state nursing care quality assurance commission.

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

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

(4) "Diagnosis," in the context of nursing practice, means the identification of, and discrimination between, the person's physical and psychosocial signs and symptoms that are essential to effective execution and management of the nursing care regimen.

(5) "Diploma" means written official verification of completion of an approved nursing education program.

(6) "Nurse" or "nursing," unless otherwise specified as a practical nurse or practical nursing, means a registered nurse or registered nursing. [1994 sp.s. c 9 § 402.]

18.79.030 Licenses required—Titles. (1) It is unlawful for a person to practice or to offer to practice as a registered nurse in this state unless that person has been licensed under this chapter. A person who holds a license to practice as a registered nurse in this state may use the titles "registered nurse" and "nurse" and the abbreviation "R.N." No other person may assume those titles or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a registered nurse.

(2) It is unlawful for a person to practice or to offer to practice as an advanced registered nurse practitioner or as a nurse practitioner in this state unless that person has been licensed under this chapter. A person who holds a license to practice as an advanced registered nurse practitioner in this state may use the titles "advanced registered nurse practitioner," "nurse practitioner," and "nurse" and the abbreviations "A.R.N.P." and "N.P." No other person may assume those titles or use those abbreviations or any other words, letters, signs, or figures to indicate that the person using them is an advanced registered nurse practitioner or nurse practitioner.

(3) It is unlawful for a person to practice or to offer to practice as a licensed practical nurse in this state unless that person has been licensed under this chapter. A person who holds a license to practice as a licensed practical nurse in this state may use the titles "licensed practical nurse" and "nurse" and the abbreviation "L.P.N." No other person may assume those titles or use that abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

(4) Nothing in this section shall prohibit a person listed as a Christian Science nurse in the Christian Science Journal published by the Christian Science Publishing Society, Boston, Massachusetts, from using the title "Christian Science nurse," so long as such person does not hold himself or herself out as a registered nurse, advanced registered nurse practitioner, nurse practitioner, or licensed practical nurse, unless otherwise authorized by law to do so. [1997 c 177 § 1; 1994 sp.s. c 9 § 403.]

18.79.040 "Registered nursing practice" defined—Exceptions. (1) "Registered nursing practice" means the per-
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formance of acts requiring substantial specialized knowledge, judgment, and skill based on the principles of the biological, physiological, behavioral, and sociological sciences in either:

(a) The observation, assessment, diagnosis, care or counsel, and health teaching of individuals with illnesses, injuries, or disabilities, or in the maintenance of health or prevention of illness of others;

(b) The performance of such additional acts requiring education and training and that are recognized by the medical and nursing professions as proper and recognized by the commission to be performed by registered nurses licensed under this chapter and that are authorized by the commission through its rules;

(c) The administration, supervision, delegation, and evaluation of nursing practice. However, nothing in this subsection affects the authority of a hospital, hospital district, in-home service agency, community-based care setting, medical clinic, or office, concerning its administration and supervision;

(d) The teaching of nursing;

(e) The executing of medical regimen as prescribed by a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner, or as directed by a licensed midwife within his or her scope of practice.

(2) Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

(3) This section does not prohibit (a) the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a registered nurse, (b) the practice of licensed practical nursing by a licensed practical nurse, or (c) the practice of a nursing assistant, providing delegated nursing tasks under chapter 18.88A RCW. [2012 c 13 § 1; 2003 c 140 § 1; 1995 1st sp.s. c 18 § 50; 1994 sp.s. c 9 § 404.]

Additional notes found at www.leg.wa.gov

18.79.050 "Advanced registered nursing practice" defined—Exceptions. "Advanced registered nursing practice" means the performance of the acts of a registered nurse and the performance of an expanded role in providing health care services as recognized by the medical and nursing professions, the scope of which is defined by rule by the commission. Upon approval by the commission, an advanced registered nurse practitioner may prescribe legend drugs and controlled substances contained in Schedule V of the Uniform Controlled Substances Act, chapter 69.50 RCW, and Schedules II through IV subject to RCW 18.79.240(1) (r) or (s).

Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

This section does not prohibit (1) the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be an advanced registered nurse practitioner, or (2) the practice of registered nurs-

ing by a licensed registered nurse or the practice of licensed practical nursing by a licensed practical nurse. [2000 c 64 § 2; 1994 sp.s. c 9 § 405.]

Additional notes found at www.leg.wa.gov

18.79.060 "Licensed practical nursing practice" defined—Exceptions. "Licensed practical nursing practice" means the performance of services requiring the knowledge, skill, and judgment necessary for carrying out selected aspects of the designated nursing regimen under the direction and supervision of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, physician assistant, osteopathic physician assistant, podiatric physician and surgeon, advanced registered nurse practitioner, registered nurse, or midwife.

Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

This section does not prohibit the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a licensed practical nurse. [2012 c 13 § 2; 1994 sp.s. c 9 § 406.]

18.79.070 Commission established—Membership—Qualifications. (1) The state nursing care quality assurance commission is established, consisting of fifteen members to be appointed by the governor to four-year terms. The governor shall consider nursing members who are recommended for appointment by the appropriate professional associations in the state. No person may serve as a member of the commission for more than two consecutive full terms.

(2) There must be seven registered nurse members, two advanced registered nurse practitioner members, three licensed practical nurse members, and three public members on the commission. Each member of the commission must be a citizen of the United States and a resident of this state.

(3)(a) Registered nurse members of the commission must:

(i) Be licensed as registered nurses under this chapter; and

(ii) Have had at least three years' experience in the active practice of nursing and have been engaged in that practice within two years of appointment.

(b) In addition:

(i) At least one member must be on the faculty at a four-year university nursing program;

(ii) At least one member must be on the faculty at a two-year community college nursing program;

(iii) At least two members must be staff nurses providing direct patient care; and

(iv) At least one member must be a nurse manager or a nurse executive.

(4) Advanced registered nurse practitioner members of the commission must:

(a) Be licensed as advanced registered nurse practitioners under this chapter; and

(b) Have had at least three years' experience in the active practice of advanced registered nursing and have been engaged in that practice within two years of appointment.

(5) Licensed practical nurse members of the commission must:

(a) Be licensed as licensed practical nurses under this chapter; and

(b) Have had at least three years' actual experience as a licensed practical nurse and have been engaged in practice as a practical nurse within two years of appointment.

(6) Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the governor appoint the existing members of the board of nursing and the board of practical nursing repealed under chapter 9, Laws of 1994 sp. sess. The governor may appoint initial members of the commission to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. Members of the commission hold office until their successors are appointed.

When the secretary appoints pro tem members, reasonable efforts shall be made to ensure that at least one pro tem member is a registered nurse who is currently practicing and, in addition to meeting other minimum qualifications, has graduated from an associate or baccalaureate nursing program within three years of appointment. [2005 c 17 § 1; 1994 sp.s. c 9 § 407.]

18.79.080 Commission—Order of removal—Vacancy. The governor may remove a member of the commission for neglect of duty, misconduct, malfeasance or misfeasance in office, or for incompetency or unprofessional conduct as defined in chapter 18.130 RCW. Whenever the governor is satisfied that a member of the commission has been guilty of neglect of duty, misconduct, malfeasance or misfeasance in office, or of incompetency or unprofessional conduct, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the statement of causes and order of removal to the last known post office address of the member. If a vacancy occurs on the commission, the governor shall appoint a replacement member to fill the remainder of the unexpired term. [1994 sp.s. c 9 § 408.]

18.79.090 Commission—Compensation. Each commission member shall be compensated in accordance with RCW 43.03.265 and shall be paid travel expenses when away from home in accordance with RCW 43.03.050 and 43.03.060. [1999 c 366 § 5; 1994 sp.s. c 9 § 409.]

18.79.100 Commission—Officers—Meetings. The commission shall annually elect officers from among its members. The commission shall meet at least quarterly at times and places it designates. It shall hold such other meetings during the year as may be deemed necessary to transact its business. A majority of the commission members appointed and serving constitutes a quorum at a meeting. All meetings of the commission must be open and public, except

that the commission may hold executive sessions to the extent permitted by chapter 42.30 RCW.

Carrying a motion or resolution, adopting a rule, or passing a measure requires the affirmative vote of a majority of a quorum of the commission. The commission may appoint panels consisting of at least three members. A quorum for transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission. [1994 sp.s. c 9 § 410.]

18.79.110 Commission—Duties and powers—Rules—Successor to boards. (1) The commission shall keep a record of all of its proceedings and make such reports to the governor as may be required. The commission shall define by rules what constitutes specialized and advanced levels of nursing practice as recognized by the medical and nursing profession. The commission may adopt rules or issue advisory opinions in response to questions put to it by professional health associations, nursing practitioners, and consumers in this state concerning the authority of various categories of nursing practitioners to perform particular acts.

(2) The commission shall approve curricula and shall establish criteria for minimum standards for schools preparing persons for licensing as registered nurses, advanced registered nurse practitioners, and licensed practical nurses under this chapter. The commission shall approve such schools of nursing as meet the requirements of this chapter and the commission, and the commission shall approve establishment of basic nursing education programs and shall establish criteria as to the need for and the size of a program and the type of program and the geographical location. The commission shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years' inactive or lapsed status. The commission shall establish criteria for licensing by endorsement. The commission shall determine examination requirements for applicants for licensing as registered nurses, advanced registered nurse practitioners, and licensed practical nurses under this chapter, and shall certify to the secretary for licensing duly qualified applicants.

(3) The commission shall adopt rules on continuing competency. The rules must include exemptions from the continuing competency requirements for registered nurses seeking advanced nursing degrees. Nothing in this subsection prohibits the commission from providing additional exemptions for any person credentialed under this chapter who is enrolled in an advanced education program.

(4) The commission shall adopt such rules under chapter 34.05 RCW as are necessary to fulfill the purposes of this chapter.

(5) The commission is the successor in interest of the board of nursing and the board of practical nursing. All contracts, undertakings, agreements, rules, regulations, decisions, orders, and policies of the former board of nursing or the board of practical nursing continue in full force and effect under the commission until the commission amends or rescinds those rules, regulations, decisions, orders, or policies.

(6) The members of the commission are immune from suit in an action, civil or criminal, based on its disciplinary

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proceedings or other official acts performed in good faith as members of the commission.

(7) Whenever the workload of the commission requires, the commission may request that the secretary appoint pro tempore members of the commission. When serving, pro tempore members of the commission have all of the powers, duties, and immunities, and are entitled to all of the emoluments, including travel expenses, of regularly appointed members of the commission. [2013 c 229 § 1; 1994 sp.s. c 9 § 411.]

18.79.120 Application of Uniform Disciplinary Act. 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. [1994 sp.s. c 9 § 412.]

18.79.140 Executive director—Qualifications. The executive director must be a graduate of an approved nursing education program and of a college or university, with a masters' degree, and currently licensed as a registered nurse under this chapter; have a minimum of eight years' experience in nursing in any combination of administration and nursing education; and have been actively engaged in the practice of registered nursing or nursing education within two years immediately before the time of appointment. [1994 sp.s. c 9 § 414.]

18.79.150 Schools and programs—Requirements—Approval. An institution desiring to conduct a school of registered nursing or a school or program of practical nursing, or both, shall apply to the commission and submit evidence satisfactory to the commission that:

(1) It is prepared to carry out the curriculum approved by the commission for basic registered nursing or practical nursing, or both; and

(2) It is prepared to meet other standards established by law and by the commission.

The commission shall make, or cause to be made, such surveys of the schools and programs, and of institutions and agencies to be used by the schools and programs, as it determines are necessary. If in the opinion of the commission, the requirements for an approved school of registered nursing or a school or program of practical nursing, or both, are met, the commission shall approve the school or program. [1994 sp.s. c 9 § 415.]

18.79.160 Applicants—Required documentation—Criteria—Rules. (1) An applicant for a license to practice as a registered nurse shall submit to the commission:

(a) An attested written application on a department form;

(b) An official transcript demonstrating graduation and successful completion of an approved program of nursing; and

(c) Any other official records specified by the commission.

(2) An applicant for a license to practice as an advanced registered nurse practitioner shall submit to the commission:

(a) An attested written application on a department form;

(b) An official transcript demonstrating graduation and successful completion of an advanced registered nurse prac-

tioner program meeting criteria established by the commission; and

(c) Any other official records specified by the commission.

(3) An applicant for a license to practice as a licensed practical nurse shall submit to the commission:

(a) An attested written application on a department form;

(b) Written official evidence that the applicant is over the age of eighteen;

(c) An official transcript demonstrating graduation and successful completion of an approved practical nursing program, or its equivalent; and

(d) Any other official records specified by the commission.

(4) At the time of submission of the application, the applicant for a license to practice as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse must not be in violation of chapter 18.130 RCW or this chapter.

(5) The commission shall establish by rule the criteria for evaluating the education of all applicants. [2004 c 262 § 6; 1994 sp.s. c 9 § 416.]

Findings—2004 c 262: See note following RCW 18.06.050.

18.79.170 Examination—Rules. An applicant for a license to practice as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse must pass an examination in subjects determined by the commission. The examination may be supplemented by an oral or practical examination. The commission shall establish by rule the requirements for applicants who have failed the examination to qualify for reexamination. [1994 sp.s. c 9 § 417.]

18.79.180 Interim permits—License—Expiration upon failure. When authorized by the commission, the department shall issue an interim permit authorizing the applicant to practice registered nursing, advanced registered nursing, or licensed practical nursing, as appropriate, from the time of verification of the completion of the school or training program until notification of the results of the examination. Upon the applicant passing the examination, and if all other requirements established by the commission for licensing are met, the department shall issue the applicant a license to practice registered nursing, advanced registered nursing, or licensed practical nursing, as appropriate. If the applicant fails the examination, the interim permit expires upon notification to the applicant, and is not renewable. The holder of an interim permit is subject to chapter 18.130 RCW. [1994 sp.s. c 9 § 418.]

18.79.190 Reciprocity—Foreign programs—Examination. Upon approval of the application by the commission, the department shall issue a license by endorsement without examination to practice as a registered nurse or as a licensed practical nurse to a person who is licensed as a registered nurse or licensed practical nurse under the laws of another state, territory, or possession of the United States, and who meets all other qualifications for licensing.

An applicant who has graduated from a school or program of nursing outside the United States and is licensed as a registered nurse or licensed practical nurse, or their equivalent,

outside the United States must meet all qualifications required by this chapter and pass examinations as determined by the commission. [1994 sp.s. c 9 § 419.]

18.79.200 License procedures, requirements, fees.

An applicant for a license to practice as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse shall comply with administrative procedures, administrative requirements, and fees as determined under RCW 43.70.250 and 43.70.280. [1996 c 191 § 62; 1994 sp.s. c 9 § 420.]

18.79.202 License fee surcharge—Use of proceeds—Nursing resource center account—Report to the legislature—Review—Rules.

(1) In addition to the licensing fee for registered nurses and licensed practical nurses licensed under this chapter, the department shall impose an additional surcharge of five dollars per year on all initial licenses and renewal licenses for registered nurses and licensed practical nurses issued under this chapter. Advanced registered nurse practitioners are only required to pay the surcharge on their registered nurse licenses.

(2) The department, in consultation with the commission and the workforce training and education coordinating board, shall use the proceeds from the surcharge imposed under subsection (1) of this section to provide grants to a central nursing resource center. The grants may be awarded only to a not-for-profit central nursing resource center that is comprised of and led by nurses. The central nursing resource center will demonstrate coordination with relevant nursing constituents including professional nursing organizations, groups representing nursing educators, staff nurses, nurse managers or executives, and labor organizations representing nurses. The central nursing resource center shall have as its mission to contribute to the health and wellness of Washington state residents by ensuring that there is an adequate nursing workforce to meet the current and future health care needs of the citizens of the state of Washington. The grants may be used to fund the following activities of the central nursing resource center:

(a) Maintain information on the current and projected supply and demand of nurses through the collection and analysis of data regarding the nursing workforce, including but not limited to education level, race and ethnicity, employment settings, nursing positions, reasons for leaving the nursing profession, and those leaving Washington state to practice elsewhere. This data collection and analysis must complement other state activities to produce data on the nursing workforce and the central nursing resource center shall work collaboratively with other entities in the data collection to ensure coordination and avoid duplication of efforts;

(b) Monitor and validate trends in the applicant pool for programs in nursing. The central nursing resource center must work with nursing leaders to identify approaches to address issues arising related to the trends identified, and collect information on other states' approaches to addressing these issues;

(c) Facilitate partnerships between the nursing community and other health care providers, licensing authority, business and industry, consumers, legislators, and educators to achieve policy consensus, promote diversity within the pro-

fession, and enhance nursing career mobility and nursing leadership development;

(d) Evaluate the effectiveness of nursing education and articulation among programs to increase access to nursing education and enhance career mobility, especially for populations that are underrepresented in the nursing profession;

(e) Provide consultation, technical assistance, data, and information related to Washington state and national nursing resources;

(f) Promote strategies to enhance patient safety and quality patient care including encouraging a safe and healthy workplace environment for nurses; and

(g) Educate the public including students in K-12 about opportunities and careers in nursing.

(3) The nursing resource center account is created in the custody of the state treasurer. All receipts from the surcharge in subsection (1) of this section must be deposited in the account. Expenditures from the account may be used only for grants to an organization to conduct the specific activities listed in subsection (2) of this section and to compensate the department for the reasonable costs associated with the collection and distribution of the surcharge and the administration of the grant provided for in subsection (2) of this section. No money from this account may be used by the recipient towards administrative costs of the central nursing resource center not associated with the specific activities listed in subsection (2) of this section. No money from this account may be used by the recipient toward lobbying. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Grants will be awarded on an annual basis and funds will be distributed quarterly. The first distribution after awarding the first grant shall be made no later than six months after July 24, 2005. The central nursing resource center shall report to the department on meeting the grant objectives annually.

(4) The central nursing resource center shall submit a report of all progress, collaboration with other organizations and government entities, and activities conducted by the center to the relevant committees of the legislature by November 30, 2011. The department shall conduct a review of the program to collect funds to support the activities of a nursing resource center and make recommendations on the effectiveness of the program and whether it should continue. The review shall be paid for with funds from the nursing resource center account. The review must be completed by June 30, 2012.

(5) The department may adopt rules as necessary to implement chapter 268, Laws of 2005. [2005 c 268 § 4.]

Finding—2005 c 268: "Washington state is experiencing a critical shortage of registered nurses. To safeguard and promote patient safety and quality of care, the legislature finds that a central resource center for the nursing workforce is critical and essential in addressing the nursing shortage and ensuring that the public continue to receive safe, quality care." [2005 c 268 § 1.]

18.79.210 License renewal—Procedures, requirements, fees. A license issued under this chapter must be renewed, except as provided in this chapter. The licensee shall comply with administrative procedures, administrative

requirements, and fees as determined under RCW 43.70.250 and 43.70.280. [1996 c 191 § 63; 1994 sp.s. c 9 § 421.]

18.79.230 Temporary retirement—Renewal—Fee—Qualification. A person licensed under this chapter who desires to retire temporarily from registered nursing practice, advanced registered nursing practice, or licensed practical nursing practice in this state shall send a written notice to the secretary.

Upon receipt of the notice the department shall place the name of the person on inactive status. While remaining on this status the person shall not practice in this state any form of nursing provided for in this chapter. When the person desires to resume practice, the person shall apply to the commission for renewal of the license and pay a renewal fee to the state treasurer. Persons on inactive status for three years or more must provide evidence of knowledge and skill of current practice as required by the commission or as provided in this chapter. [1994 sp.s. c 9 § 423.]

18.79.240 Construction. (1) In the context of the definition of registered nursing practice and advanced registered nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice registered nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing technicians;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a registered nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in the practice of nursing as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or a bureau, division, or agency thereof, while in the discharge of his or her official duties;

(h) Permitting the measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses for the aid thereof;

(i) Permitting the prescribing or directing the use of, or using, an optical device in connection with ocular exercises, visual training, vision training, or orthoptics;

(j) Permitting the prescribing of contact lenses for, or the fitting and adaptation of contact lenses to, the human eye;

(k) Prohibiting the performance of routine visual screening;

(l) Permitting the practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW, respectively;

(m) Permitting the practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulation of the spine;

(n) Permitting the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW;

(o) Permitting the performance of major surgery, except such minor surgery as the commission may have specifically authorized by rule adopted in accordance with chapter 34.05 RCW;

(p) Permitting the prescribing of controlled substances as defined in Schedule I of the Uniform Controlled Substances Act, chapter 69.50 RCW;

(q) Prohibiting the determination and pronouncement of death;

(r) Prohibiting advanced registered nurse practitioners, approved by the commission as certified registered nurse anesthetists from selecting, ordering, or administering controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, consistent with their commission-recognized scope of practice; subject to facility-specific protocols, and subject to a request for certified registered nurse anesthetist anesthesia services issued by a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, a dentist licensed under chapter 18.32 RCW, or a podiatric physician and surgeon licensed under chapter 18.22 RCW; the authority to select, order, or administer Schedule II through IV controlled substances being limited to those drugs that are to be directly administered to patients who require anesthesia for diagnostic, operative, obstetrical, or therapeutic procedures in a hospital, clinic, ambulatory surgical facility, or the office of a practitioner licensed under chapter 18.71, 18.22, 18.36, 18.36A, 18.57, 18.57A, or 18.32 RCW; "select" meaning the decision-making process of choosing a drug, dosage, route, and time of administration; and "order" meaning the process of directing licensed individuals pursuant to their statutory authority to directly administer a drug or to dispense, deliver, or distribute a drug for the purpose of direct administration to a patient, under instructions of the certified registered nurse anesthetist. "Protocol" means a statement regarding practice and documentation concerning such items as categories of patients, categories of medications, or categories of procedures rather than detailed case-specific formulas for the practice of nurse anesthesia;

(s) Prohibiting advanced registered nurse practitioners from ordering or prescribing controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, if and to the extent that doing so is permitted by their scope of practice.

(2) In the context of the definition of licensed practical nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice practical nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of practical nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing assistants;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting or preventing the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a licensed practical nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in licensed practical nurse practice as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof, while in the discharge of his or her official duties. [2005 c 28 § 1; 2003 c 258 § 6; 2000 c 64 § 3; 1994 sp.s. c 9 § 424.]

Additional notes found at www.leg.wa.gov

18.79.250 Advanced registered nurse practitioner—Activities allowed. An advanced registered nurse practitioner under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in RCW 18.79.260 and 18.79.270:

(1) Perform specialized and advanced levels of nursing as recognized jointly by the medical and nursing professions, as defined by the commission;

(2) Prescribe legend drugs and Schedule V controlled substances, as defined in the Uniform Controlled Substances Act, chapter 69.50 RCW, and Schedules II through IV subject to RCW 18.79.240(1) (r) or (s) within the scope of practice defined by the commission;

(3) Perform all acts provided in RCW 18.79.260;

(4) Hold herself or himself out to the public or designate herself or himself as an advanced registered nurse practitioner or as a nurse practitioner. [2000 c 64 § 4; 1994 sp.s. c 9 § 425.]

Additional notes found at www.leg.wa.gov

18.79.256 Advanced registered nurse practitioner—Scope of practice—Document attestation. An advanced registered nurse practitioner may sign and attest to any certificates, cards, forms, or other required documentation that a physician may sign, so long as it is within the advanced registered nurse practitioner's scope of practice. [2015 c 104 § 1.]

18.79.260 Registered nurse—Activities allowed—Delegation of tasks. (1) A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, to individuals with illnesses, injuries, or disabilities.

(2) A registered nurse may, at or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, optometrist, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner, or midwife acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice.

(3) A registered nurse may delegate tasks of nursing care to other individuals where the registered nurse determines that it is in the best interest of the patient.

(a) The delegating nurse shall:

(i) Determine the competency of the individual to perform the tasks;

(ii) Evaluate the appropriateness of the delegation;

(iii) Supervise the actions of the person performing the delegated task; and

(iv) Delegate only those tasks that are within the registered nurse's scope of practice.

(b) A registered nurse, working for a home health or hospice agency regulated under chapter 70.127 RCW, may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

(c) Except as authorized in (b) or (e) of this subsection, a registered nurse may not delegate the administration of medications. Except as authorized in (e) of this subsection, a registered nurse may not delegate acts requiring substantial skill, and may not delegate piercing or severing of tissues. Acts that require nursing judgment shall not be delegated.

(d) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines that it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety.

(e) For delegation in community-based care settings or in-home care settings, a registered nurse may delegate nursing care tasks only to registered or certified nursing assistants or home care aides certified under chapter 18.88B RCW. Simple care tasks such as blood pressure monitoring, personal care service, diabetic insulin device set up, verbal verification of insulin dosage for sight-impaired individuals, or

other tasks as defined by the nursing care quality assurance commission are exempted from this requirement.

(i) "Community-based care settings" includes: Community residential programs for people with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(ii) "In-home care settings" include an individual's place of temporary or permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings as defined in (e)(i) of this subsection.

(iii) Delegation of nursing care tasks in community-based care settings and in-home care settings is only allowed for individuals who have a stable and predictable condition. "Stable and predictable condition" means a situation in which the individual's clinical and behavioral status is known and does not require the frequent presence and evaluation of a registered nurse.

(iv) The determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse. Other than delegation of the administration of insulin by injection for the purpose of caring for individuals with diabetes, the administration of medications by injection, sterile procedures, and central line maintenance may never be delegated.

(v) When delegating insulin injections under this section, the registered nurse delegator must instruct the individual regarding proper injection procedures and the use of insulin, demonstrate proper injection procedures, and must supervise and evaluate the individual performing the delegated task weekly during the first four weeks of delegation of insulin injections. If the registered nurse delegator determines that the individual is competent to perform the injection properly and safely, supervision and evaluation shall occur at least every ninety days thereafter.

(vi)(A) The registered nurse shall verify that the nursing assistant or home care aide, as the case may be, has completed the required core nurse delegation training required in chapter 18.88A or 18.88B RCW prior to authorizing delegation.

(B) Before commencing any specific nursing tasks authorized to be delegated in this section, a home care aide must be certified pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

(vii) The nurse is accountable for his or her own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority are immune from liability for any action performed in the course of their delegation duties.

(viii) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur, but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task.

(f) The nursing care quality assurance commission may adopt rules to implement this section.

(4) Only a person licensed as a registered nurse may instruct nurses in technical subjects pertaining to nursing.

(5) Only a person licensed as a registered nurse may hold herself or himself out to the public or designate herself or himself as a registered nurse. [2012 c 164 § 407; 2012 c 13 § 3; 2012 c 10 § 37; 2009 c 203 § 1; 2008 c 146 § 11; 2003 c 140 § 2; 2000 c 95 § 3; 1995 1st sp.s. c 18 § 51; 1995 c 295 § 1; 1994 sp.s. c 9 § 426.]

Reviser's note: This section was amended by 2012 c 10 § 37, 2012 c 13 § 3, and by 2012 c 164 § 407, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Application—2012 c 10: See note following RCW 18.20.010.

Findings—Intent—Severability—2008 c 146: See notes following RCW 74.41.040.

Additional notes found at www.leg.wa.gov

18.79.270 Licensed practical nurse—Activities allowed. A licensed practical nurse under his or her license may perform nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof may, under the direction of a licensed physician and surgeon, osteopathic physician and surgeon, dentist, naturopathic physician, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner, or midwife acting under the scope of his or her license, or at the direction and under the supervision of a registered nurse, administer drugs, medications, treatments, tests, injections, and inoculations, whether or not the piercing of tissues is involved and whether or not a degree of independent judgment and skill is required, when selected to do so by one of the licensed practitioners designated in this section, or by a registered nurse who need not be physically present; if the order given is reduced to writing within a reasonable time and made a part of the patient's record. Such direction must be for acts within the scope of licensed practical nurse practice. [2012 c 13 § 4; 1995 c 295 § 2; 1994 sp.s. c 9 § 427.]

Additional notes found at www.leg.wa.gov

18.79.280 Medication, tests, treatments allowed. It is not a violation of chapter 18.71 RCW or of chapter 18.57 RCW for a registered nurse, at or under the general direction of a licensed physician and surgeon, or osteopathic physician and surgeon, to administer prescribed drugs, injections, inoculations, tests, or treatment whether or not the piercing of tissues is involved. [1994 sp.s. c 9 § 428.]

18.79.290 Catheterization of students—Rules. (1) In accordance with rules adopted by the commission, public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students or assisted self-catheterization of students who are in the custody of the school district or private school at the time. After consultation with staff of the superintendent of public instruction, the commission shall adopt rules in accordance with chapter 34.05 RCW, that provide for the following and such other

matters as the commission deems necessary to the proper implementation of this section:

(a) A requirement for a written, current, and unexpired request from a parent, legal guardian, or other person having legal control over the student that the school district or private school provide for the catheterization of the student;

(b) A requirement for a written, current, and unexpired request from a physician licensed under chapter 18.71 or 18.57 RCW, that catheterization of the student be provided for during the hours when school is in session or the hours when the student is under the supervision of school officials;

(c) A requirement for written, current, and unexpired instructions from an advanced registered nurse practitioner or a registered nurse licensed under this chapter regarding catheterization that include (i) a designation of the school district or private school employee or employees who may provide for the catheterization, and (ii) a description of the nature and extent of any required supervision; and

(d) The nature and extent of acceptable training that shall (i) be provided by a physician, advanced registered nurse practitioner, or registered nurse licensed under chapter 18.71 or 18.57 RCW, or this chapter, and (ii) be required of school district or private school employees who provide for the catheterization of a student under this section, except that a licensed practical nurse licensed under this chapter is exempt from training.

(2) This section does not require school districts to provide intermittent bladder catheterization of students. [1994 sp.s. c 9 § 429.]

Catheterization of public and private school students: RCW 28A.210.280 and 28A.210.290.

18.79.300 Department—Rules for administration. The department, subject to chapter 34.05 RCW, the Washington Administrative Procedure Act, may adopt such reasonable rules as may be necessary to carry out the duties imposed upon it in the administration of this chapter. [1994 sp.s. c 9 § 430.]

18.79.310 Rules, regulations, decisions of previous boards—Effect. As of July 1, 1994, all rules, regulations, decisions, and orders of the board of nursing under *chapter 18.88 RCW or the board of practical nursing under *chapter 18.78 RCW continue to be in effect under the commission, until the commission acts to modify the rules, regulations, decisions, or orders. [1994 sp.s. c 9 § 431.]

***Reviser's note:** Chapters 18.88 and 18.78 RCW were repealed by 1994 sp.s. c 9 § 433, effective July 1, 1994.

18.79.330 Finding. The legislature finds a need to provide additional work-related opportunities for nursing students. Nursing students enrolled in bachelor of science programs or associate degree programs, working within the limits of their education, gain valuable judgment and knowledge through expanded work opportunities. [2003 c 258 § 1.]

Additional notes found at www.leg.wa.gov

18.79.340 Nursing technicians. (1) "Nursing technician" means a nursing student employed in a hospital licensed under chapter 70.41 RCW, a clinic, or a nursing home licensed under chapter 18.51 RCW, who:

(a) Is currently enrolled in good standing in a nursing program approved by the commission and has not graduated; or

(b) Is a graduate of a nursing program approved by the commission who graduated:

(i) Within the past thirty days; or

(ii) Within the past sixty days and has received a determination from the secretary that there is good cause to continue the registration period, as defined by the secretary in rule.

(2) No person may practice or represent oneself as a nursing technician by use of any title or description of services without being registered under this chapter, unless otherwise exempted by this chapter.

(3) The commission may adopt rules to implement chapter 258, Laws of 2003. [2012 c 153 § 13; 2003 c 258 § 2.]

Rules—2012 c 153: See note following RCW 18.360.005.

Additional notes found at www.leg.wa.gov

18.79.350 Nursing technicians—Nursing functions.

(1) Nursing technicians are authorized to perform specific nursing functions within the limits of their education, up to their skill and knowledge, but they may not:

(a) Administer chemotherapy, blood or blood products, intravenous medications, or scheduled drugs, or carry out procedures on central lines;

(b) Assume ongoing responsibility for assessments, planning, implementation, or evaluation of the care of patients;

(c) Function independently, act as a supervisor, or delegate tasks to licensed practical nurses, nursing assistants, or unlicensed personnel; or

(d) Perform or attempt to perform nursing techniques or procedures for which the nursing technician lacks the appropriate knowledge, experience, and education.

(2) Nursing technicians may function only under the direct supervision of a registered nurse who agrees to act as supervisor and is immediately available to the nursing technician. The supervising registered nurse must have an unrestricted license with at least two years of clinical practice in the setting where the nursing technician works.

(3) Nursing technicians may only perform specific nursing functions based upon and limited to their education and when they have demonstrated the ability and been verified to safely perform these functions by the nursing program in which the nurse technician is enrolled. The nursing program providing verification is immune from liability for any nursing function performed or not performed by the nursing technician.

(4) Nursing technicians are responsible and accountable for their specific nursing functions. [2003 c 258 § 3.]

Additional notes found at www.leg.wa.gov

18.79.360 Applications for registration as a nursing technician—Fee. (1) Applications for registration must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for registration provided for in chapter 18.130 RCW. Each applicant shall pay a fee determined by

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the secretary under RCW 43.70.250. The fee must accompany the application.

(2) An applicant for registration as a nursing technician shall submit:

(a) A signed statement from the applicant's nursing program verifying enrollment in, or graduation from, the nursing program; and

(b) A signed statement from the applicant's employer certifying that the employer understands the role of the nursing technician and agrees to meet the requirements of subsection (4) of this section.

(3) The secretary shall issue a registration to an applicant who has met the requirements for registration or deny a registration to an applicant who does not meet the requirements, except that proceedings concerning the denial of registration based on unprofessional conduct or impairment are governed by the uniform disciplinary act, chapter 18.130 RCW.

(4) The employer:

(a) Shall not require the nursing technician to work beyond his or her education and training;

(b) Shall verify that the nursing technician continues to qualify as a nursing technician as described in RCW 18.79.340;

(c) Shall advise the department and nursing program of any practice-related action taken against the nursing technician;

(d) Shall maintain documentation of the specific nursing functions the nursing technician is authorized to perform; and

(e) Shall provide training regarding the provisions of chapter 258, Laws of 2003, including procedures for filing a complaint with the department of health or the department of social and health services concerning violations of chapter 258, Laws of 2003, to all nursing technicians and registered nurses who shall supervise nursing technicians and document the training and make it available for any inspection or survey. [2003 c 258 § 4.]

Additional notes found at www.leg.wa.gov

18.79.370 Nursing technicians—Registration renewal. The secretary shall establish by rule the procedural requirements and fees for renewal of the registration. Failure to renew invalidates the registration and all privileges granted by the registration. For renewal of registration, a nursing technician must attest that he or she continues to qualify as a nursing technician as described in RCW 18.79.340. [2003 c 258 § 5.]

Additional notes found at www.leg.wa.gov

18.79.380 Licensed practical nurse/nontraditional registered nurse program—Obtaining required clinical experience. A licensed practical nurse with an active license who has completed the coursework of a nontraditional registered nurse program approved by the commission can obtain the required clinical experience when: (1) The experience is obtained under the immediate supervision of a registered nurse who agrees to act as the preceptor with the understanding that the licensed practical nurse is practicing under the preceptor's registered nurse license. The preceptor must have an unrestricted license with at least two years of clinical practice in the same type of practice setting where the preceptorship will occur; and (2) the experience is obtained within six

months of completion of the approved nontraditional program. [2004 c 262 § 7.]

Findings—2004 c 262: See note following RCW 18.06.050.

18.79.390 Secretary and commission relationship.

(1) The secretary shall employ an executive director that is:

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

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

(c) Responsible for performing all administrative duties of the commission, including preparing an annual budget, and any other duties as delegated to the executive director by the commission.

(2) Consistent with the budgeting and accounting act, the commission is responsible for proposing its own biennial budget which the secretary must submit to the office of financial management.

(3) Prior to adopting credentialing fees under RCW 43.70.250, the secretary shall collaborate with the commission to determine the appropriate fees necessary to support the activities of the commission.

(4) Prior to the secretary exercising the secretary's authority to adopt uniform rules and guidelines, or any other actions that might impact the licensing or disciplinary authority of the commission, the secretary shall first meet with the commission to determine how those rules or guidelines, or changes to rules or guidelines, might impact the commission's ability to effectively carry out its statutory duties. If the commission, in consultation with the secretary, determines that the proposed rules or guidelines, or changes to existing rules or guidelines, will negatively impact the commission's ability to effectively carry out its statutory duties, then the individual commission shall collaborate with the secretary to develop alternative solutions to mitigate the impacts. If an alternative solution cannot be reached, the parties may resolve the dispute through a mediator as set forth in subsection (6) of this section.

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

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

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

(8) By December 31, 2013, the commission must present a report with recommendations to the governor and the legislature regarding:

(a) Evidence-based practices and research-based practices used by boards of nursing when conducting licensing, educational, disciplinary, and financial activities and the use of such practices by the commission; and

(b) A comparison of the commission's licensing, education, disciplinary, and financial outcomes with those of other boards of nursing using a national database. [2013 c 81 § 5; 2011 c 60 § 8; 2008 c 134 § 30.]

Effective date—2013 c 81: See note following RCW 18.25.210.

Effective date—2011 c 60: See RCW 42.17A.919.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.79.400 Pain management rules—Criteria for new rules. (1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an advanced registered nurse practitioner or certified registered nurse anesthetist first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an advanced registered nurse practitioner or certified registered nurse anesthetist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional associations for advanced registered nurse practitioners and certified registered nurse anesthetists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure. [2010 c 209 § 7.]

18.79.410 Commission—Information to legislature.

In addition to the authority provided in RCW 42.52.804, the commission, its members, or staff as directed by the commission, may communicate, present information requested, volunteer information, testify before legislative committees, and

educate the legislature, as the commission may from time to time see fit. [2013 c 81 § 6.]

Effective date—2013 c 81: See note following RCW 18.25.210.

18.79.420 Down syndrome—Parent information. A nurse who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the nurse provides the parent with the Down syndrome diagnosis. [2016 c 70 § 7.]

18.79.900 Severability—1994 sp.s. c 9. 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. [1994 sp.s. c 9 § 904.]

18.79.901 Headings and captions not law—1994 sp.s. c 9. Headings and captions used in this act constitute no part of the law. [1994 sp.s. c 9 § 905.]

18.79.902 Effective date—1994 sp.s. c 9. This act takes effect July 1, 1994. [1994 sp.s. c 9 § 906.]

Chapter 18.83 RCW PSYCHOLOGISTS

Sections

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Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

18.83.010 Definitions. When used in this chapter:

(1) The "practice of psychology" means the observation, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures for the purposes of preventing or eliminating symptomatic or maladaptive behavior and promoting mental and behavioral health. It includes, but is not limited to, providing the following services to individuals, families, groups, organizations, and the public, whether or not payment is received for services rendered:

(a) Psychological measurement, assessment, and evaluation by means of psychological, neuropsychological, and psychoeducational testing;

(b) Diagnosis and treatment of mental, emotional, and behavioral disorders, and psychological aspects of illness, injury, and disability; and

(c) Counseling and guidance, psychotherapeutic techniques, remediation, health promotion, and consultation within the context of established psychological principles and theories.

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) "Secretary" means the secretary of health.

(3) "Board" means the examining board of psychology.

(4) "Department" means the department of health. [1994 c 35 § 1; 1991 c 3 § 193; 1984 c 279 § 75; 1979 c 158 § 67; 1965 c 70 § 1; 1955 c 305 § 1.]

Additional notes found at www.leg.wa.gov

18.83.020 License required—Use of "psychology" or similar terms. (1) To safeguard the people of the state of Washington from the dangers of unqualified and improper practice of psychology, it is unlawful for any person to whom this chapter applies to represent himself or herself to be a psychologist without first obtaining a license as provided in this chapter.

(2) A person represents himself or herself to be a psychologist when the person adopts or uses any title or any description of services which incorporates one or more of the following terms: "psychology," "psychological," "psychologist," or any term of like import. [1986 c 27 § 1; 1965 c 70 § 2; 1955 c 305 § 2.]

18.83.035 Examining board—Composition—Terms—Chairperson. 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. Board members shall be appointed for a term of five years, except that the terms of the existing appointees shall be adjusted by the governor so that no more than two members' terms expire each year with all subsequent appointments for a five-year term. 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. [1989 c 226 § 1; 1986 c 27 § 2; 1984 c 279 § 76.]

Additional notes found at www.leg.wa.gov

18.83.045 Examining board—Generally. 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 secretary. Five members of the board shall constitute a quorum, except that oral examinations may be conducted with only three psychologist members. [1991 c 3 § 195; 1984 c 279 § 77.]

Additional notes found at www.leg.wa.gov

18.83.050 Examining board—Powers and duties. (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 under this chapter and shall forward to the secretary the names of applicants so eligible.

(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 examination, except as provided in RCW 18.83.170. The board may allow applicants to take the 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 may require that persons licensed under this chapter as psychologists obtain and maintain professional liability insurance in amounts determined by the board to be practicable and reasonably available. [2004 c 262 § 8; 1994 c 35 § 2; 1991 c 3 § 196; 1986 c 27 § 3; 1984 c 279 § 78; 1965 c 70 § 5; 1955 c 305 § 5.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

18.83.051 Examining board—Compensation and travel expenses. Each member of the board shall be compensated in accordance with RCW 43.03.240 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 48; 1983 c 168 § 10; 1975-'76 2nd ex.s. c 34 § 48; 1969 ex.s. c 199 § 19; 1965 c 70 § 21.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.83.054 Application of uniform disciplinary act.

(1) 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.

(2) A person who holds a license under this chapter is subject to the uniform disciplinary act, chapter 18.130 RCW, at all times the license is maintained. [1999 c 66 § 1; 1987 c 150 § 51.]

Additional notes found at www.leg.wa.gov

18.83.060 Application, examination—Fees. Administrative procedures, administrative requirements, and fees for applications and examinations shall be established as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 64; 1991 c 3 § 197; 1984 c 279 § 79; 1975 1st ex.s. c 30 § 72; 1965 c 70 § 6; 1955 c 305 § 6.]

Additional notes found at www.leg.wa.gov

18.83.070 Applicants—Qualifications—Examination. An applicant for a license as "psychologist" must submit proof to the board that:

(1) The applicant is of good moral character.

(2) 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) The applicant has had no fewer than two years of supervised experience. The board shall adopt rules defining the circumstances under which supervised experience shall qualify the candidate for licensure.

(4) The applicant has passed the examination or examinations required by the board.

Any person holding a valid license to practice psychology in the state of Washington on June 7, 1984, shall be considered licensed under this chapter. [2004 c 262 § 9; 1995 c 198 § 11; 1984 c 279 § 80; 1965 c 70 § 7; 1955 c 305 § 7.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

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

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

(3) The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities. [2004 c 262 § 10; 1996 c 191 § 65; 1995 c 198 § 12; 1991 c 3 § 198; 1984 c 279 § 81; 1971 ex.s. c 266 § 15; 1965 c 70 § 20.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

18.83.080 Licenses—Issuance—Display. The board shall forward to the secretary the name of each applicant entitled to a license under this chapter. The secretary shall

promptly issue to such applicant a license authorizing such applicant to use the title "psychologist". Each licensed psychologist shall keep his or her license displayed in a conspicuous place in his or her principal place of business. [1996 c 191 § 66; 1991 c 3 § 199; 1986 c 27 § 4; 1965 c 70 § 8; 1955 c 305 § 8.]

18.83.082 Temporary permit. 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, or if the person is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter, a permit may be issued. No fee shall be charged for such temporary permit. [2004 c 262 § 11; 1996 c 191 § 67; 1984 c 279 § 82; 1975 1st ex.s. c 30 § 73; 1965 c 70 § 23.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

18.83.090 Continuing education requirements—Human trafficking information—License renewal. (1) The board shall establish rules governing mandatory continuing education requirements which shall be met by any psychologist applying for a license renewal.

(2) The office of crime victims advocacy shall supply the board with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive and must include information relating to minor victims. The board shall disseminate this information to licensees by: Providing the information on the board's web site; including the information in newsletters; holding trainings at meetings attended by organization members; or through another distribution method determined by the board. The board shall report to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection.

(3) Administrative procedures, administrative requirements, and fees for renewal and reissue of licenses shall be established as provided in RCW 43.70.250 and 43.70.280. [2009 c 492 § 6; 1996 c 191 § 68; 1991 c 3 § 200; 1984 c 279 § 83; 1977 c 58 § 1; 1975 1st ex.s. c 30 § 74; 1971 ex.s. c 266 § 16; 1965 c 70 § 9; 1955 c 305 § 9.]

Additional notes found at www.leg.wa.gov

18.83.105 Certificates of qualification. The board may issue certificates of qualification with appropriate title to applicants who meet all the licensing requirements except the possession of the degree of Doctor of Philosophy or its equivalent in psychology from an accredited educational institution. These certificates of qualification certify that the holder has been examined by the board and is deemed competent to perform certain functions within the practice of psychology under the periodic direct supervision of a psychologist licensed by the board. Such functions will be specified on the certificate issued by the board. Such applicant shall comply with administrative procedures, administrative requirements, and fees determined under RCW 43.70.250 and 43.70.280.

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Upon petition by a holder the board of examiners may grant authority to function without immediate supervision. [1996 c 191 § 69; 1991 c 3 § 201; 1985 c 7 § 67; 1975 1st ex.s. c 30 § 75; 1965 c 70 § 22.]

18.83.110 Privileged communications. (Effective until April 1, 2018.) Confidential communications between a client and a psychologist shall be privileged against compulsory disclosure to the same extent and subject to the same conditions as confidential communications between attorney and client, but this exception is subject to the limitations under RCW 70.96A.140 and 71.05.360 (8) and (9). [2005 c 504 § 706; 1989 c 271 § 303; 1987 c 439 § 12; 1965 c 70 § 11; 1955 c 305 § 11.]

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Additional notes found at www.leg.wa.gov

18.83.110 Privileged communications. (Effective April 1, 2018.) Confidential communications between a client and a psychologist shall be privileged against compulsory disclosure to the same extent and subject to the same conditions as confidential communications between attorney and client, but this exception is subject to the limitations under RCW 71.05.360 (8) and (9). [2016 1st sp.s. c 29 § 414; 2005 c 504 § 706; 1989 c 271 § 303; 1987 c 439 § 12; 1965 c 70 § 11; 1955 c 305 § 11.]

Effective dates—2016 1st sp.s. c 29: See note following RCW 71.05.760.

Short title—Right of action—2016 1st sp.s. c 29: See notes following RCW 71.05.010.

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Additional notes found at www.leg.wa.gov

18.83.115 Duty to disclose information to client. (1) Psychologists licensed under this chapter shall provide clients at the commencement of any program of treatment with accurate disclosure information concerning their practice, in accordance with guidelines developed by the board, which will inform clients of the purposes of and resources available under this chapter, including the right of clients to refuse treatment, the responsibility of clients for choosing the provider and treatment modality which best suits their needs, and the extent of confidentiality provided by this chapter. The disclosure information provided by the psychologist, the receipt of which shall be acknowledged in writing by the psychologist and client, shall include any relevant education and training, the therapeutic orientation of the practice, the proposed course of treatment where known, any financial requirements, and such other information as the board may require by rule.

(2) In inpatient settings, the health facility shall provide clients with the disclosure statement at the commencement of any program of treatment, and shall post the statement in a conspicuous location accessible to the client.

(3) The board shall provide for modification of the guidelines as appropriate in cases where the client has been referred by the court, a state agency, or other governmental

body to a particular provider for specified evaluation or treatment. [1986 c 27 § 9.]

18.83.121 Unprofessional conduct. 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. [1987 c 150 § 52.]

Additional notes found at www.leg.wa.gov

18.83.135 Examining board—Powers and duties. In addition to the authority prescribed under RCW 18.130.050, the board shall have the following authority:

- (1) 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 board;
- (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; and
- (3) To apply the provisions of the uniform disciplinary act, chapter 18.130 RCW, to all persons licensed as psychologists under this chapter. [2000 c 93 § 7; 1999 c 66 § 2; 1994 c 35 § 4; 1992 c 12 § 1; 1987 c 150 § 53; 1984 c 279 § 86.]

Additional notes found at www.leg.wa.gov

18.83.155 Examining board—Notice of disciplinary action. The board shall report to appropriate national and state organizations which represent the profession of psychology any disciplinary action. [1994 c 35 § 5; 1987 c 150 § 54; 1984 c 279 § 89.]

Additional notes found at www.leg.wa.gov

18.83.170 License without oral examination. Upon compliance with administrative procedures, administrative requirements, and fees determined under RCW 43.70.250 and 43.70.280, the board may grant a license, without 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 the applicant:

- (1) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and
- (2)(a) 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
- (b) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or
- (c) Is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter. [2004 c 262 § 12; 1996 c 191 § 70; 1991 c 3 § 202; 1984 c 279 § 92; 1975 1st ex.s. c 30 § 76; 1965 c 70 § 17; 1955 c 305 § 17.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

18.83.180 Penalties. 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. [1987 c 150 § 55; 1965 c 70 § 18; 1955 c 305 § 18.]

Additional notes found at www.leg.wa.gov

18.83.190 Injunction. If any person represents himself or herself to be a psychologist, unless the person is exempt from the provisions of this chapter, without possessing a valid license, certificated qualification, or a temporary permit to do so, or if he or she violates any of the provisions of this chapter, any prosecuting attorney, the secretary, or any citizen of the same county may maintain an action in the name of the state to enjoin such person from representing himself or herself as a psychologist. The injunction shall not relieve the person from criminal prosecution, but the remedy by injunction shall be in addition to the liability of such offender to criminal prosecution and to suspension or revocation of his or her license. [1991 c 3 § 203; 1986 c 27 § 8; 1965 c 70 § 24.]

18.83.200 Exemptions. This chapter shall not apply to:

- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology but only insofar as such activities are performed as a part of or are dependent upon a position in a college or university in the state of Washington.
- (2) Any person who holds a valid school psychologist credential from the Washington professional educator standards board but only when such a person is practicing psychology in the course of his or her employment.
- (3) Any person employed by a local, state, or federal government agency whose psychologists must qualify for employment under federal or state certification or civil service regulations; but only at those times when that person is carrying out the functions of his or her employment.

(4) Any person who must qualify under the employment requirements of a business or industry and who is employed by a business or industry which is not engaged in offering psychological services to the public, but only when such person is carrying out the functions of his or her employment: PROVIDED, That no person exempt from licensing under this subsection shall engage in the clinical practice of psychology.

(5) Any person who is a student of psychology, psychological intern, or resident in psychology preparing for the profession of psychology under supervision in a training institution or facilities and who is designated by the title such as "psychological trainee," "psychology student," which thereby indicates his or her training status.

(6) Any person who has received a doctoral degree from an accredited institution of higher learning with an adequate major in sociology or social psychology as determined by the board and who has passed comprehensive examinations in the field of social psychology as part of the requirements for the doctoral degree. Such persons may use the title "social psychologist" provided that they file a statement of their education with the board. [2006 c 263 § 803; 1986 c 27 § 10; 1965 c 70 § 19.]

Findings—Purpose—Part headings not law—2006 c 263: See notes following RCW 28A.150.230.

18.83.210 Certain counseling or guidance not prohibited. Nothing in this chapter shall be construed as prohibiting any individual from offering counseling or guidance provided that such individuals do not hold themselves forth as psychologists. [1965 c 70 § 25.]

Chapter 18.84 RCW RADIOLOGIC TECHNOLOGISTS

Sections

18.84.010	Legislative intent—Insurance coverage not required.
18.84.020	Definitions.
18.84.030	Registration or certificate required.
18.84.040	Powers of secretary—Application of uniform disciplinary act.
18.84.050	Record of proceedings.
18.84.070	Secretary immune from liability.
18.84.080	Certification—Qualifications.
18.84.085	Certification—Cardiovascular invasive specialists.
18.84.090	Certification—Approval of schools and training.
18.84.095	Certification—Military training or experience.
18.84.100	Certification—Application form—Fee.
18.84.110	Renewal of certificates.
18.84.120	Registration—Fee—Requirements.
18.84.123	Application, certification, and renewal fees.
18.84.130	Educational material.
18.84.140	Application of chapter—Exemption for authorized scope of practice.
18.84.150	Application of chapter—Exemption for dentists.
18.84.160	Application of chapter—Exemption for chiropractors.
18.84.170	Registration deadline.
18.84.180	Unprofessional conduct.
18.84.800	Construction—Student practice.
18.84.901	Effective date—1987 c 412.
18.84.903	Effective date—1991 c 222.

Regulation of health professions—Criteria: Chapter 18.120 RCW.

18.84.010 Legislative intent—Insurance coverage not required. It is the intent and purpose of this chapter to protect the public by the certification and registration of practitioners of radiological technology. By promoting high standards of professional performance, by requiring professional

accountability, and by credentialing those persons who seek to provide radiological technology under the title of radiologic technologists, and by regulating all persons utilizing ionizing radiation on human beings this chapter identifies those practitioners who have achieved a particular level of competency. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter.

The legislature finds and declares that this chapter conforms to the guidelines, terms, and definitions for the credentialing of health or health-related professions specified under chapter 18.120 RCW. [2008 c 246 § 1; 1991 c 222 § 1; 1987 c 412 § 1.]

18.84.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approved cardiovascular invasive specialist program" or "approved radiologist assistant program" means a school approved by the secretary. The secretary may recognize other organizations that establish standards for radiologist assistant programs or cardiovascular invasive specialist programs and designate schools that meet the organization's standards as approved.

(2) "Approved school of radiologic technology" means a school of radiologic technology, cardiovascular invasive specialist program, or radiologist assistant program approved by the secretary or a school found to maintain the equivalent of such a course of study as determined by the department. Such school may be operated by a medical or educational institution, and for the purpose of providing any requisite clinical experience, shall be affiliated with one or more general hospitals.

(3) "Cardiac or vascular catheterization" means all anatomic or physiological studies of intervention in which the heart, coronary arteries, or vascular system are entered via a systemic vein or artery using a catheter that is manipulated under fluoroscopic visualization.

(4) "Department" means the department of health.

(5) "Licensed practitioner" means any licensed health care practitioner performing services within the person's authorized scope of practice.

(6) "Radiologic technologist" means an individual certified under this chapter, other than a licensed practitioner, who practices radiologic technology as a:

(a) Diagnostic radiologic technologist, who is a person who actually handles X-ray equipment in the process of applying radiation on a human being for diagnostic purposes at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW;

(b) Therapeutic radiologic technologist, who is a person who uses radiation-generating equipment for therapeutic purposes on human subjects at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervi-

sion of a physician licensed under chapter 18.71 or 18.57 RCW;

(c) Nuclear medicine technologist, who is a person who prepares radiopharmaceuticals and administers them to human beings for diagnostic and therapeutic purposes and who performs in vivo and in vitro detection and measurement of radioactivity for medical purposes at the direction of a licensed practitioner;

(d) Radiologist assistant, who is an advanced-level certified diagnostic radiologic technologist who assists radiologists by performing advanced diagnostic imaging procedures as determined by rule under levels of supervision defined by the secretary, this includes but is not limited to enteral and parenteral procedures when performed under the direction of the supervising radiologist, and that these procedures may include injecting diagnostic agents to sites other than intravenous, performing diagnostic aspirations and localizations, and assisting radiologists with other invasive procedures; or

(e) Cardiovascular invasive specialist, who is a person who assists in cardiac or vascular catheterization procedures under the personal supervision of a physician licensed under chapter 18.71 or 18.57 RCW. This includes parenteral procedures related to cardiac or vascular catheterization including, but not limited to, parenteral procedures involving arteries and veins.

(7) "Radiologic technology" means the use of ionizing radiation upon a human being for diagnostic or therapeutic purposes.

(8) "Radiologist" means a physician certified by the American board of radiology or the American osteopathic board of radiology.

(9) "Registered X-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner and who does not perform parenteral procedures.

(10) "Secretary" means the secretary of health. [2010 c 92 § 1; 2008 c 246 § 2; 2000 c 93 § 42; 1994 sp.s. c 9 § 505; 1991 c 222 § 2; 1991 c 3 § 204; 1987 c 412 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Interpretation—2010 c 92: See note following RCW 18.84.080.

Additional notes found at www.leg.wa.gov

18.84.030 Registration or certificate required. No person may practice radiologic technology without being registered or certified under this chapter, unless that person is a licensed practitioner as defined in *RCW 18.84.020(3). A person represents himself or herself to the public as a certified radiologic technologist when that person adopts or uses a title or description of services that incorporates one or more of the following items or designations:

(1) Certified radiologic technologist or CRT, for persons so certified under this chapter;

(2) Certified radiologic therapy technologist, CRTT, or CRT, for persons certified in the therapeutic field;

(3) Certified radiologic diagnostic technologist, CRDT, or CRT, for persons certified in the diagnostic field;

(4) Certified nuclear medicine technologist, CNMT, or CRT, for persons certified as nuclear medicine technologists; or

(5) Certified radiologist assistant or CRA for persons certified as radiologist assistants. [2008 c 246 § 3; 1991 c 222 § 3; 1987 c 412 § 2.]

***Reviser's note:** RCW 18.84.020 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (3) to subsection (5).

18.84.040 Powers of secretary—Application of uniform disciplinary act. (1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all registration, certification, and renewal fees in accordance with RCW 43.70.250;

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

(d) Evaluate and designate those schools from which graduation will be accepted as proof of an applicant's eligibility to receive a certificate;

(e) Determine whether alternative methods of training are equivalent to formal education, and to establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to receive a certificate;

(f) Issue a certificate to any applicant who has met the education, training, examination, and conduct requirements for certification; and

(g) Issue a registration to an applicant who meets the requirement for a registration.

(2) The secretary may hire clerical, administrative, and investigative staff as needed to implement this chapter.

(3) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of registrations and certifications, unregistered and uncertified practice, and the discipline of registrants and certificants under this chapter. The secretary is the disciplining authority under this chapter. [2009 c 560 § 17; 2008 c 246 § 4; 1994 sp.s. c 9 § 506; 1991 c 222 § 11; 1991 c 3 § 205; 1987 c 412 § 5.]

Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: See notes following RCW 18.06.080.

Additional notes found at www.leg.wa.gov

18.84.050 Record of proceedings. The secretary shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for certification under this chapter, with the result of each application. [1991 c 3 § 206; 1987 c 412 § 6.]

18.84.070 Secretary immune from liability. The secretary or individuals acting on his or her behalf are immune from suit in any civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties. [2009 c 560 § 18; 1994 sp.s. c 9 § 507; 1991 c 3 § 208; 1987 c 412 § 8.]

Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560: See notes following RCW 18.06.080.

Additional notes found at www.leg.wa.gov

18.84.080 Certification—Qualifications. (1) The secretary shall issue a certificate to any applicant who demon-

strates to the secretary's satisfaction, that the following requirements have been met to practice as:

(a) A diagnostic radiologic technologist, therapeutic radiologic technologist, or nuclear medicine technologist:

(i) Graduation from an approved school or successful completion of alternate training that meets the criteria established by the secretary;

(ii) Satisfactory completion of a radiologic technologist examination approved by the secretary; and

(iii) Good moral character;

(b) A radiologist assistant:

(i) Satisfactory completion of an approved radiologist assistant program;

(ii) Satisfactory completion of a radiologist assistant examination approved by the secretary; and

(iii) Good moral character; or

(c) A cardiovascular invasive specialist:

(i) Satisfactory completion of a cardiovascular invasive specialist program or alternate training approved by the secretary. The secretary may only approve a cardiovascular invasive specialist program that includes training in the following subjects: Cardiovascular anatomy and physiology, pharmacology, radiation physics and safety, radiation imaging and positioning, medical recordkeeping, and multicultural health as required by RCW 43.70.615(3);

(ii) Satisfactory completion of a cardiovascular invasive specialist examination approved by the secretary. For purposes of this subsection (1)(c)(ii), the secretary may approve an examination administered by a national credentialing organization for cardiovascular invasive specialists; and

(iii) Good moral character.

(2) Applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

(3) The secretary shall establish by rule what constitutes adequate proof of meeting the requirements for certification and for designation of certification in a particular field of radiologic technology. [2010 c 92 § 2; 2008 c 246 § 5; 1991 c 3 § 209; 1987 c 412 § 9.]

Interpretation—2010 c 92: "Nothing in this act shall be interpreted to alter the scope of practice of any other credentialed health profession or to limit the ability of any other credentialed health professional to assist in cardiac or vascular catheterization if such assistance is within the professional's scope of practice." [2010 c 92 § 5.]

18.84.085 Certification—Cardiovascular invasive specialists. (1) Until July 1, 2012, the secretary shall, in addition to certificates issued under RCW 18.84.080, issue a cardiovascular invasive specialist certificate to any person who:

(a) Has held a health care credential in good standing issued by the department for at least five years; and

(b) Has at least five years, with at least one thousand hours per year, of prior experience in cardiac or vascular catheterization during the period of time the person held the health care credential under (a) of this subsection.

(2) A person certified as a cardiovascular invasive specialist under this section is subject to the same renewal requirements as all other certified cardiovascular invasive specialists, but shall not be subject to the education and examination requirements, unless he or she allows his or her

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certification to expire without renewal for more than one year. If the person allows his or her certification to expire without renewal for more than one year, he or she must meet the same education and examination requirements as all other certified cardiovascular invasive specialists before being issued a new certification. [2010 c 92 § 3.]

Interpretation—2010 c 92: See note following RCW 18.84.080.

18.84.090 Certification—Approval of schools and training. The secretary shall establish by rule the standards and procedures for approval of schools and alternate training, and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating those applying for approval. The standards and procedures set shall apply equally to schools and training within the United States and those in foreign jurisdictions. [1994 sp.s. c 9 § 508; 1991 c 3 § 210; 1987 c 412 § 10.]

Additional notes found at www.leg.wa.gov

18.84.095 Certification—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 9.]

18.84.100 Certification—Application form—Fee. Applications for certification must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the determination of whether the applicant meets the requirements for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall comply with administrative procedures, administrative requirements, and fees determined by the secretary as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 71; 1991 c 3 § 211; 1987 c 412 § 11.]

18.84.110 Renewal of certificates. The secretary shall establish the administrative procedures, administrative requirements, and fees for renewal of certificates as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 72; 1994 sp.s. c 9 § 509; 1991 c 3 § 212; 1987 c 412 § 12.]

Additional notes found at www.leg.wa.gov

18.84.120 Registration—Fee—Requirements. The secretary may issue a registration to an applicant who submits, on forms provided by the department, the applicant's name, the address, occupational title, name and location of business where applicant performs his or her services, and other information as determined by the secretary, including information necessary to determine whether there are grounds for denial of registration under this chapter or chapter 18.130 RCW. Each applicant shall pay a fee as determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The secretary shall establish the administrative procedures, administrative requirements, and fees for registration and for renewal of registrations as provided in RCW 43.70.250 and 43.70.280. [1996 c 191 § 73; 1991 c 222 § 4.]

18.84.123 Application, certification, and renewal fees. In accordance with RCW 43.135.055, the department may establish application, certification, and renewal fees as necessary to recover the cost of implementing chapter 246, Laws of 2008. [2008 c 285 § 14.]

Intent—Captions not law—Effective date—2008 c 285: See notes following RCW 43.22.434.

18.84.130 Educational material. The secretary may provide educational materials and training to registered X-ray technicians, certified radiologic technologists, licensed practitioners and the public concerning, but not limited to, health risks associated with ionizing radiation, proper radiographic techniques, and X-ray equipment maintenance. The secretary may charge fees to recover the cost of providing educational materials and training. [1991 c 222 § 5.]

18.84.140 Application of chapter—Exemption for authorized scope of practice. Nothing in this chapter may be construed to prohibit or restrict the practice of a profession by a person who is either registered, certified, licensed, or similarly regulated under the laws of this state who is performing services within the person's authorized scope of practice. [1991 c 222 § 6.]

18.84.150 Application of chapter—Exemption for dentists. This chapter does not apply to practitioners licensed under chapter 18.32 RCW or unlicensed persons supervised by persons licensed under chapter 18.32 RCW. [1991 c 222 § 7.]

18.84.160 Application of chapter—Exemption for chiropractors. This chapter does not apply to practitioners licensed under chapter 18.25 RCW or unlicensed persons supervised by persons licensed under chapter 18.25 RCW. [1991 c 222 § 8.]

18.84.170 Registration deadline. Persons required to register under this chapter must be registered by January 1, 1992. [1991 c 222 § 10.]

18.84.180 Unprofessional conduct. It is unprofessional conduct under chapter 18.130 RCW for any person registered or certified under this chapter to interpret images, make diagnoses, prescribe medications or therapies, or perform other procedures that may be prohibited by rule. [2008 c 246 § 6.]

18.84.800 Construction—Student practice. Nothing in this chapter may be construed to prohibit or restrict practice by a regularly enrolled student in a cardiovascular invasive specialist program approved by the secretary whose practice is pursuant to a regular course of instruction or assignments. Persons practicing under this section must be clearly identified as students. [2010 c 92 § 4.]

Interpretation—2010 c 92: See note following RCW 18.84.080.

18.84.901 Effective date—1987 c 412. This act shall take effect October 1, 1987. [1987 c 412 § 17.]

18.84.903 Effective date—1991 c 222. This act is necessary for the immediate preservation of the public peace,

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health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 222 § 14.]

Chapter 18.85 RCW

REAL ESTATE BROKERS AND MANAGING BROKERS

Sections

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18.85.490	Military training or experience.
18.85.930	Effective date—2008 c 23.

Excise tax on real estate sales: Chapter 82.45 RCW.

Real estate salesman or broker on commission not subject to unemployment compensation: RCW 50.04.230.

18.85.011 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advertising" means any attempt by publication or broadcast, whether oral, written, or otherwise, to induce a person to use the services of a real estate firm, broker, managing broker, or designated broker.

(2) "Broker" means a natural person acting on behalf of a real estate firm to perform real estate brokerage services under the supervision of a designated broker or managing broker.

(3) "Business opportunity" means and includes business, business entity, and good will of an existing business or any one or combination thereof when the transaction or business includes an interest in real property.

(4) "Clear and conspicuous" in an advertising statement means the representation or term being used is of such a color, contrast, size, or audibility, and presented in a manner so as to be readily noticed and understood.

(5) "Clock hours of instruction" means actual hours spent in classroom instruction in any tax supported, public technical college, community college, or any other institution of higher learning or a correspondence course from any of the aforementioned institutions certified by such institution as the equivalent of the required number of clock hours, and the real estate commission may certify courses of instruction other than in the aforementioned institutions.

(6) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include a single-family residential lot or single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are part of a larger building or parcel of real estate, unless the property is sold or leased for a commercial purpose.

(7) "Commission" means the real estate commission of the state of Washington.

(8) "Controlling interest" means the ability to control either the operational or financial, or both, decisions of a firm.

(9) "Department" means the Washington department of licensing.

(10) "Designated broker" means:

(a) A natural person who owns a sole proprietorship real estate firm; or

(b) A natural person with a controlling interest in the firm who is designated by a legally recognized business entity such as a corporation, limited liability company, limited liability partnership, or partnership real estate firm, to act as a designated broker on behalf of the real estate firm, and whose managing broker's license receives an endorsement from the department of "designated broker."

(11) "Director" means the director of the department of licensing.

(12) "Inactive license" means the status of a license that is not expired and is not affiliated with a firm.

(13) "Licensee" means a person holding a license as a real estate firm, managing broker, or broker.

(14) "Managing broker" means a natural person acting on behalf of a real estate firm to perform real estate brokerage

services under the supervision of the designated broker, and who may supervise other brokers or managing brokers licensed to the firm.

(15) "Person" includes a natural person, corporation, limited liability company, limited liability partnership, partnership, or public or private organization or entity of any character, except where otherwise restricted.

(16) "Real estate brokerage services" means any of the following services offered or rendered directly or indirectly to another, or on behalf of another for compensation or the promise or expectation of compensation, or by a licensee on the licensee's own behalf:

(a) Listing, selling, purchasing, exchanging, optioning, leasing, renting of real estate, or any real property interest therein; or any interest in a cooperative; or any interest in a floating home or floating on-water residence, as defined in RCW 90.58.270;

(b) Negotiating or offering to negotiate, either directly or indirectly, the purchase, sale, exchange, lease, or rental of real estate, or any real property interest therein; or any interest in a cooperative; or any interest in a floating home or floating on-water residence, as defined in RCW 90.58.270;

(c) Listing, selling, purchasing, exchanging, optioning, leasing, renting, or negotiating the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase, sale, lease, exchange, or rental of the land upon which the manufactured or mobile home is or will be located;

(d) Advertising or holding oneself out to the public by any solicitation or representation that one is engaged in real estate brokerage services;

(e) Advising, counseling, or consulting buyers, sellers, landlords, or tenants in connection with a real estate transaction;

(f) Issuing a broker's price opinion. For the purposes of this chapter, "broker's price opinion" means an oral or written report of property value that is prepared by a licensee under this chapter and is not an appraisal as defined in RCW 18.140.010 unless it complies with the requirements established under chapter 18.140 RCW;

(g) Collecting, holding, or disbursing funds in connection with the negotiating, listing, selling, purchasing, exchanging, optioning, leasing, or renting of real estate or any real property interest; and

(h) Performing property management services, which includes with no limitation: Marketing; leasing; renting; the physical, administrative, or financial maintenance of real property; or the supervision of such actions.

(17) "Real estate firm" or "firm" means a sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, or other legally recognized business entity conducting real estate brokerage services in this state and licensed by the department as a real estate firm. [2015 c 133 § 1; 2008 c 23 § 1; 2003 c 201 § 1; 1998 c 46 § 2; 1997 c 322 § 1; 1987 c 332 § 1; 1981 c 305 § 1; 1979 c 158 § 68; 1977 ex.s. c 370 § 1; 1973 1st ex.s. c 57 § 1; 1972 ex.s. c 139 § 1; 1969 c 78 § 1; 1953 c 235 § 1; 1951 c 222 § 1; 1943 c 118 § 1; 1941 c 252 § 2; Rem. Supp. 1943 § 8340-25. Prior: 1925 ex.s. c 129 § 4. Formerly RCW 18.85.010.]

18.85.021 Real estate commission created—Qualifications, terms, appointment of members—Vacancies. There is established the real estate commission of the state of Washington, consisting of the director who is the chair of the commission and six commission members who shall act in an advisory capacity to the director. The commission shall annually elect a vice chair to conduct the commission meetings in the absence of the director.

The governor must appoint six commission members for a term of six years each. At least two of the commission members shall be selected from the area in the state west of the Cascade mountain range and at least two shall be selected from that area of the state east of the Cascade mountain range. No commission member shall be appointed who has had less than five years' experience in performing real estate brokerage services in this state, or has had at least three years' experience in investigative work of a similar nature, preferably in connection with the administration of real estate license law of this state or elsewhere. The governor must fill by appointment any vacancies on the commission for the unexpired term. [2008 c 23 § 7; 1972 ex.s. c 139 § 6; 1953 c 235 § 17. Formerly RCW 18.85.071.]

18.85.025 Commission—Compensation and travel expenses—Frequency of meetings. The six board members of the commission shall be compensated in accordance with RCW 43.03.240, plus travel expenses in accordance with RCW 43.03.050 and 43.03.060 when they are called into session by the director or when otherwise engaged in the business of the commission. The commission shall meet four times a year or at the call of the director. [2008 c 23 § 8; 1984 c 287 § 49; 1975-'76 2nd ex.s. c 34 § 49; 1953 c 235 § 4; 1951 c 222 § 6; 1941 c 252 § 14; Rem. Supp. 1941 § 8340-37. Formerly RCW 18.85.080.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.85.031 Commission—Educational conferences—Examinations of applicants for licenses. The commission shall have authority to hold educational conferences for the benefit of the industry, and shall conduct examinations of applicants for licenses under this chapter. The commission shall ensure that examinations are prepared and administered at examination centers throughout the state and may approve examination locations in foreign jurisdictions. [2008 c 23 § 9; 1997 c 322 § 4; 1977 ex.s. c 24 § 1; 1953 c 235 § 18. Formerly RCW 18.85.085.]

18.85.035 Commission—Home inspector referrals—Procedures. The commission must establish procedures, to be adopted in rule by the director, for real estate agents to follow when providing potential home buyers with home inspector referrals. [2008 c 119 § 24.]

18.85.041 Director—General powers and duties. (1) The director, with the advice and approval of the commission, may issue rules to govern the activities of real estate brokers, managing brokers, designated brokers, and real estate firms, consistent with this chapter and chapters 18.86 and 18.235 RCW, fix the times and places for holding exam-

inations of applicants for licenses, and prescribe the method of conducting them.

(2)(a) The director shall enforce all laws and rules relating to the licensing of real estate firms, brokers, managing brokers, and designated brokers, grant or deny licenses including temporary licenses to real estate firms, brokers, and managing brokers, and hold hearings.

(b) The director shall enforce all laws and rules relating to the issuance of certificates of approval to real estate schools, real estate school administrators and instructors, and approval of real estate education courses.

(3) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions and for reciprocity including the use of written recognition agreements.

(4) The director may issue rules requiring all applicants to submit to a criminal background check, and the applicant is responsible for the payment of any fees incurred.

(5) The director shall adopt rules and establish standards relating to permissible forms of clear and conspicuous advertising by licensees.

(6) The director shall institute a program of real estate education. The program may include courses at institutions of higher education in Washington, trade schools, private real estate schools, and preapproved forums and conferences. The program shall include establishing minimum levels of ongoing education for licensees relating to the practice of real estate under this chapter. The program may also include the development or implementation of curricula courses, educational materials, or approaches to education relating to real estate when required or approved for continuing education credit. The director may develop and provide educational programs and materials for members of the public. The director may enter into contracts with other persons or entities, whether publicly or privately owned or operated, to assist in developing or implementing the real estate education program.

(7) The director shall charge a fee for the certification of courses of instruction, instructors, and schools.

(8) The director may take disciplinary action against real estate schools and real estate school administrators and instructors based upon conduct, acts, or conditions prescribed by rule, and may impose any or all of the following sanctions and fines:

(a) Withdrawal of the certificate of approval;

(b) Suspension of the certificate of approval for a fixed or indefinite term;

(c) Stayed suspension for a designated period of time;

(d) Censure or reprimand;

(e) Payment of a fine for each violation not to exceed one thousand dollars per day per violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty;

(f) Denial of an initial or renewal application for a certificate of approval; and

(g) Other corrective action. [2008 c 23 § 3; 2002 c 86 § 229; 1992 c 92 § 1; 1988 c 205 § 2; 1987 c 332 § 2; 1972 ex.s. c 139 § 3; 1953 c 235 § 2; 1951 c 222 § 3; 1941 c 252 § 4; Rem. Supp. 1941 § 8340-27. Prior: 1925 ex.s. c 129 § 2. Formerly RCW 18.85.040.]

Additional notes found at www.leg.wa.gov

18.85.045 Director's seal. The director shall adopt a seal with the words "real estate director, state of Washington," and such other device as the director may approve engraved thereon, by which the director shall authenticate the proceedings of the office. Copies of all records and papers in the office of the director certified to be true copies under the hand and seal of the director shall be received in evidence in all cases equally and with like effect as the originals. The director may authorize one or more assistants to certify records and papers. [2008 c 23 § 6; 1997 c 322 § 3; 1972 ex.s. c 139 § 5; 1941 c 252 § 8; RRS § 8340-31. Prior: 1925 ex.s. c 129 § 7. Formerly RCW 18.85.060.]

18.85.051 Publication of chapter—Distribution. The director may publish a copy of this chapter and information relative to the enforcement of this chapter and may mail a copy of this chapter and the information to each licensed broker, managing broker, and firm. [2008 c 23 § 27; 1997 c 322 § 16; 1972 ex.s. c 139 § 18; 1953 c 235 § 10; 1947 c 203 § 8; 1941 c 252 § 27; Rem. Supp. 1947 § 8340-50. Prior: 1925 ex.s. c 129 § 22. Formerly RCW 18.85.210.]

18.85.053 Controlling interest in a real estate business—Prohibited practices. (1) A real estate licensee or person who has a controlling interest in a real estate business shall not, directly or indirectly, give any fee, kickback, payment, or other thing of value to any other real estate licensee as an inducement, reward for placing title insurance business, referring title insurance business, or causing title insurance business to be given to a title insurance agent in which the real estate licensee or person having a controlling interest in a real estate business also has a financial interest.

(2) A real estate licensee or person who has a controlling interest in a real estate business shall not either solicit or accept, or both, anything of value from: A title insurance company, a title insurance agent, or the employees or representatives of a title insurance company or title insurance agent, that a title insurance company or title insurance agent is not permitted by law or rule to give to the real estate licensee or person who has a controlling interest in a real estate business.

(3) A real estate licensee or person who has a controlling interest in a real estate business shall not prevent or deter a title insurance company, title insurance agent, or their employees or representatives from delivering to a real estate licensee or its employees, independent contractors, and clients printed promotional material concerning only title insurance services as long as:

(a) The material is business appropriate and is not misleading or false;

(b) The material does not malign the real estate licensee, its employees, independent contractors, or affiliates;

(c) The delivery of the materials is limited to those areas of the real estate licensee's physical office reserved for unobstructed public access; and

(d) The conduct of the employees or representatives is appropriate for a business setting and does not threaten the safety or health of anyone in the real estate licensee's office.

(4) A real estate licensee shall not require a consumer, as a condition of providing real estate services, to obtain title

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insurance from a title insurance agent in which the real estate licensee has a financial interest. [2008 c 110 § 10.]

18.85.061 License fees—Real estate commission account. All fees required under this chapter shall be set by the director in accordance with RCW 43.24.086 and shall be paid to the state treasurer. All fees paid under the provisions of this chapter shall be placed in the real estate commission account in the state treasury. All money derived from fines imposed under this chapter shall be deposited in the real estate education program account created in RCW 18.85.321. During the 2013-2015 and 2015-2017 fiscal biennium [biennia], the legislature may transfer to the state general fund such amounts as reflect the excess fund balance in the real estate commission account. [2016 1st sp.s. c 36 § 914; 2013 2nd sp.s. c 4 § 955; 2008 c 23 § 29; 1993 c 50 § 1; 1991 c 277 § 1; 1987 c 332 § 8; 1967 c 22 § 1; 1953 c 235 § 11; 1941 c 252 § 7; Rem. Supp. 1941 § 8340-30. Formerly RCW 18.85.220.]

Effective date—2016 1st sp.s. c 36: See note following RCW 18.20.430.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Additional notes found at www.leg.wa.gov

18.85.065 Employees. The director shall appoint adequate staff to assist him or her. [2008 c 23 § 2; 1997 c 322 § 2; 1972 ex.s. c 139 § 2; 1951 c 222 § 2; 1945 c 111 § 1, part; 1941 c 252 § 5, part; Rem. Supp. 1945 § 8340-28, part. Formerly RCW 18.85.030.]

18.85.075 Director and employees business interest prohibited. While employed with the department, the director and employees who administer, regulate, or enforce real estate laws and rules must relinquish interest in any real estate business regulated by this chapter. If any real estate licensee is employed by the director as an employee, the license of the broker, real estate firm, or managing broker is placed on inactive status and remains inactive until the cessation of employment with the director. [2008 c 23 § 4; 1972 ex.s. c 139 § 4; 1953 c 235 § 3; 1951 c 222 § 4; 1945 c 111 § 1, part; 1941 c 252 § 5, part; Rem. Supp. 1945 § 8340-28, part. Formerly RCW 18.85.050.]

18.85.081 Licensure of town, city, or county employees conducting real estate transactions. Persons licensed under this chapter who are employed by a town, city, or county, and who are conducting real estate transactions on behalf of the town, city, or county, may hold active licenses under this chapter, and their designated and managing brokers are not responsible for their real estate transactions on behalf of their town, city, or county employer. [2008 c 23 § 5; 1987 c 514 § 2. Formerly RCW 18.85.055.]

18.85.091 Firm license—Requirements. (1) The minimum requirements for a firm to receive a license are that the firm:

(a) Designates a managing broker as the "designated broker" who has authority to act for the firm, and provides the director with the name of the owner or owners or any others with a controlling interest in the firm;

(b) Assures that no person with controlling interest in the firm is the subject of a final departmental order, as provided in chapter 34.05 RCW, suspending or revoking any type of real estate license; and

(c) Does not adopt a name that is the same or similar to currently issued licenses or that implies the real estate firm is a nonprofit or research organization, or is a public bureau or group.

(2) An applicant for a real estate firm's license shall provide the director with:

(a) The firm name and unified business identifier number;

(b) Washington business mailing and street address, contact telephone number, if any, and a mailing and physical address for either the firm's trust account or business records location, or both;

(c) Internet home page site and business email address, if any;

(d) Application fee prescribed by the director; and

(e) Any other information the director may require.

(3) The firm must provide the following to the department for renewal of the firm's license:

(a) Renewal fee;

(b) Notice of any change in controlling interest for the firm; and

(c) Notice of any change in the firm's registration or certificate of authority filed with the secretary of state. [2008 c 23 § 10.]

18.85.101 Broker's license—Requirements—Renewal. (1) The minimum requirements for an individual to receive a broker's license are that the individual:

(a) Is eighteen years of age or older;

(b) Has a high school diploma or its equivalent;

(c) Except as provided in RCW 18.85.141, has furnished proof, as the director may require, that the applicant has successfully completed ninety hours of instruction in real estate. Instruction must include courses as prescribed by the director including fundamentals and practices. Each course must be completed within two years before applying for the broker's license examination and be approved by the director. The applicant must pass a course examination, approved by the director for each course used to satisfy the broker's license requirement; and

(d) Has passed the broker's license examination.

(2) The broker's license may be renewed upon completion of continuing education courses and payment of the renewal fee as prescribed by the director. The education requirements for the first renewal of the broker's license must include ninety hours of courses as prescribed by the director, including real estate law, advance practices, and continuing education.

(3) The broker is licensed to one firm at a time and is supervised by a designated or managing broker. [2008 c 23 § 11; 1994 c 291 § 1; 1985 c 162 § 1; 1972 ex.s. c 139 § 8; 1953 c 235 § 5; 1951 c 222 § 7; 1941 c 252 § 15; Rem. Supp. 1941 § 8340-38. Formerly RCW 18.85.090.]

Additional notes found at www.leg.wa.gov

18.85.111 Managing broker's license—Requirements—Renewal. (1) The minimum requirements for an

individual to receive a managing broker's license are that the individual:

(a) Is eighteen years of age or older;

(b) Has a high school diploma or its equivalent;

(c) Has had a minimum of three years of licensed experience as a full-time real estate broker in this state or in another jurisdiction having comparable requirements within the five years previous to applying for the managing broker's license examination or is otherwise qualified by reason of practical experience in a business allied with or related to real estate as prescribed by rule;

(d) Except as provided in RCW 18.85.141, has furnished proof, as the director may require, that the applicant has successfully completed ninety hours of instruction in real estate. Instruction must include courses as prescribed by the director including real estate brokerage management, business management, and advanced real estate law. The director may approve and accept other related education. Each course must be completed within three years before applying for the managing broker's license examination, be at least thirty clock hours, and be approved by the director. The applicant must pass a course examination, approved by the director for each course that is used to satisfy the managing broker's license requirement; and

(e) Has passed the managing broker's license examination.

(2) A managing broker's license may be renewed upon completion of continuing education courses and payment of the renewal fee as prescribed by the director.

(3) A managing broker can be licensed to one firm only at any one time. [2008 c 23 § 12.]

18.85.121 Designated brokers—Registration—Endorsements. (1) A designated broker must hold a license as a managing broker in accordance with RCW 18.85.111, and may act as a designated broker for more than one firm. The department shall register designated brokers.

(2) A managing broker for a firm must be registered to that firm as its designated broker if that managing broker accepts endorsements from other firms as their designated broker.

(3) Registered designated brokers must immediately notify the department of additional firms for which they serve as designated broker, and shall receive a printed endorsement on their managing broker's licenses indicating the names of all firms for which they serve as designated broker. [2008 c 23 § 13.]

18.85.131 Out-of-state licensees—Requirements in lieu of licensing. (1) Persons with licenses deemed equivalent to licenses held by Washington licensees, as determined by the director, for a fee, commission, or other valuable consideration, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform those acts that require a license under this chapter, with respect to commercial real estate, provided that the out-of-state licensee, as approved by the director, does all of the following:

(a) Works in cooperation with a Washington real estate designated broker who holds a valid, active managing broker license issued under this chapter;

(b) Enters into a written agreement with the Washington firm, through its designated broker, that includes the terms of cooperation, oversight by the Washington designated broker, compensation, and a statement that the approved out-of-state licensee and its agents will agree to adhere to the laws of Washington;

(c) Furnishes the Washington designated broker with a copy of the out-of-state approved licensee's current license in good standing from any jurisdiction where the out-of-state approved licensee maintains an active real estate license;

(d) Consents to jurisdiction that legal actions arising out of the conduct of the approved out-of-state licensee or its agents may be commenced against the approved licensee in the court of proper jurisdiction of any county in Washington where the cause of action arises or where the plaintiff resides;

(e) Includes the name of the Washington broker, managing broker, or firm on all advertising in accordance with RCW 18.85.361(8); and

(f) Deposits all documentation required by this section and records and documents related to the transaction with the Washington broker, managing broker, or firm for a period of three years after the date the documentation is provided, or the transaction occurred, as appropriate.

(2) A person licensed in a jurisdiction where there is no legal distinction between a real estate broker license and a real estate salesperson license must meet the requirements of subsection (1) of this section before engaging in any activity described in this section that requires a real estate broker license in this state. [2008 c 23 § 47; 2003 c 201 § 2. Formerly RCW 18.85.560.]

18.85.141 Substitution of educational requirements—Rules. The director may allow for substitution of the clock-hour requirements in RCW 18.85.101(1)(c) and 18.85.111(1)(d), if the director makes a determination that the individual is otherwise and similarly qualified by reason of completion of equivalent educational coursework in any institution of higher education as defined in RCW 28B.10.016 or any degree-granting institution as defined in RCW 28B.85.010 approved by the director. The director shall establish, by rule, guidelines for determining equivalent educational coursework. [2008 c 23 § 14; 1994 c 291 § 4; 1987 c 332 § 18. Formerly RCW 18.85.097.]

Additional notes found at www.leg.wa.gov

18.85.151 Exemptions from licensing. This chapter shall not apply to:

(1) Any person who purchases or disposes of property and/or a business opportunity for that individual's own account, or that of a group of which the person is a member, and their employees;

(2) Any duly authorized attorney-in-fact acting under a power of attorney without compensation;

(3) An attorney-at-law in the performance of the practice of law;

(4) Any receiver, trustee in bankruptcy, executor, administrator, guardian, personal representative, or any person acting under the order of any court, selling under a deed of trust, or acting as trustee under a trust;

(5) Any secretary, bookkeeper, accountant, or other office personnel who does not engage in any conduct or

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activity specified in any of the definitions under RCW 18.85.011;

(6) Employees of towns, cities, counties, or governmental entities involved in an acquisition of property for right-of-way, eminent domain, or threat of eminent domain;

(7) Only with respect to the rental or lease of individual storage space, any person who owns or manages a self-service storage facility as defined under chapter 19.150 RCW;

(8) Any person providing referrals to licensees who is not involved in the negotiation, execution of documents, or related real estate brokerage services, and compensation is not contingent upon receipt of compensation by the licensee or the real estate firm;

(9) Certified public accountants if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest;

(10) Any natural persons or entities including title or escrow companies, escrow agents, attorneys, or financial institutions acting as escrow agents if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest;

(11) Investment counselors if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest;

(12) Common interest community managers who, in an advisory capacity and for compensation or in expectation of compensation, provide management or financial services, negotiate agreements to provide management or financial services, or represent themselves as providing management or financial services to an association governed by chapter 64.32, 64.34, or 64.38 RCW, if they do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest. This subsection (12) applies regardless of whether a common interest community manager acts as an independent contractor to, employee of, general manager or executive director of, or agent of an association governed by chapter 64.32, 64.34, or 64.38 RCW; and

(13) Any person employed or retained by, for, or on behalf of the owner or on behalf of a designated or managing broker if the person is limited in property management to any of the following activities:

(a) Delivering a lease application, a lease, or any amendment thereof to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment for delivery to and made payable to the real estate firm or owner;

(c) Showing a rental unit to any person, or executing leases or rental agreements, and the employee or retaineer is acting under the direct instruction of the owner or designated or managing broker;

(d) Providing information about a rental unit, a lease, an application for lease, or a security deposit and rental amounts to any prospective tenant; or

(e) Assisting in the performance of property management functions by carrying out administrative, clerical, financial, or maintenance tasks. [2012 c 126 § 1; 2008 c 23 § 16; 1997 c 322 § 7; 1989 c 161 § 1; 1988 c 240 § 20; 1977 ex.s. c 370 § 9; 1972 ex.s. c 139 § 10; 1951 c 222 § 9; 1941 c 252 § 3; Rem. Supp. 1941 § 8340-26. Prior: 1925 ex.s. c 129 § 4. Formerly RCW 18.85.110.]

18.85.171 Applications—Conditions—Fees. (1) A person desiring a license as a real estate firm shall apply on a form prescribed by the director. A person desiring a license as a real estate broker or managing broker must pay an examination fee and pass an examination. The person shall apply for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

(a) Furnish other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, which may include fingerprints and criminal background checks, of any applicants for a license, or of the officers of a corporation, limited liability company, other legally recognized business entity, or the partners of a limited liability partnership or partnership, making the application;

(b) If the applicant is a corporation, furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is a foreign corporation, the applicant shall furnish a certified copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a limited liability company or other legally recognized business entity, the applicant shall furnish a list of the members and managers of the company and their addresses. If the applicant is a limited liability partnership or partnership, the applicant shall furnish a list of the partners thereof and their addresses;

(c) Unless the applicant is a corporation or limited liability company, complete a fingerprint-based background check through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant must submit the fingerprints and required fee for the background check to the director for submission to the Washington state patrol. The director may consider the recent issuance of a license that required a fingerprint-based national criminal information background check, or recent employment in a position that required a fingerprint-based national criminal information background check, in addition to fingerprints to accelerate the licensing and endorsement process. The director may adopt rules to establish a procedure to allow a person covered by this section to have the person's background rechecked under this subsection upon application for a renewal license.

(2) The director must develop by rule a procedure and schedule to ensure all applicants for licensure have a fingerprint and background check done on a regular basis. [2008 c 23 § 17; 1997 c 322 § 8; 1987 c 332 § 4; 1980 c 72 § 1; 1979 c 25 § 1. Prior: 1977 ex.s. c 370 § 3; 1977 ex.s. c 24 § 2; 1973 1st ex.s. c 42 § 1; 1953 c 235 § 6; 1951 c 222 § 10. Formerly: (i) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11. (ii) 1947 c 203 § 3; 1945 c 111 § 6; 1941 c 252 § 16; Rem. Supp. 1947 § 8340-39. Formerly RCW 18.85.120.]

18.85.181 Examinations—Sample questions—Scope—Moneys from sale. The director shall provide each original applicant for an examination a sample list of questions and answers pertaining to real estate law and the operation of the business and may provide the same at cost to any

licensee or to other members of the public. The director shall ascertain by written examination, that each applicant has:

(1) An appropriate knowledge of the English language, including reading, writing, and mathematics;

(2) An understanding of the principles of conveying real estate and the general purposes and legal effect of deeds, finance contracts, and leases;

(3) An understanding of the principles of real estate investment, property valuation, and appraisals;

(4) An understanding of real estate broker agency relationships;

(5) An understanding of the principles of real estate practice and the canons of business ethics pertaining thereto; and

(6) An understanding of the provisions of chapters 18.86 and 18.235 RCW and this chapter.

The examination for real estate managing brokers shall be more exacting than that for real estate brokers.

All moneys received for the sale of educational literature to licensees and members of the public shall be placed in the real estate commission fund. [2008 c 23 § 18; 1997 c 322 § 9; 1972 ex.s. c 139 § 11; 1951 c 222 § 11. Formerly: 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340-35, part. Formerly RCW 18.85.130.]

18.85.191 License fees—Expiration—Renewal—Identification cards—Background checks. Before receiving a license, every real estate broker, managing broker, and firm must pay a license fee as prescribed by the director by rule. A license issued under the provisions of this chapter expires two years from the issuance date. Licenses issued to real estate firms that are partnerships, limited liability partnerships, limited liability companies, corporations, and other legally recognized business entities expire on the date when the registration or certificate of authority filed with the secretary of state expires. Licenses must be renewed every two years on or before the date established under this section and a biennial renewal license fee as prescribed by the director by rule must be paid. A license is considered expired when the licensee fails to meet the renewal requirements as of the date of renewal for that license.

If the director does not receive the application for a renewal license on or before the renewal date, a penalty fee as prescribed by the director by rule shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of a person whose license renewal fee is not received within one year from the date of expiration is canceled. This person may obtain a new license by satisfying the procedures and requirements as prescribed by the director by rule.

The director may issue to each active licensee a license and a pocket identification card in the form and size as prescribed by rule.

The director must develop by rule a procedure and a schedule to ensure all active licensees and licensees applying for active status, renewal, or reinstatement have a fingerprint and background check done on a regular basis. [2008 c 23 § 19; 1997 c 322 § 10; 1991 c 225 § 2; 1989 c 161 § 2; 1987 c 332 § 5; 1979 c 25 § 2. Prior: 1977 ex.s. c 370 § 4; 1977 ex.s. c 24 § 3; 1972 ex.s. c 139 § 12; 1953 c 235 § 7; 1951 c 222 §

12. Formerly: (i) 1947 c 203 § 2, part; 1945 c 111 § 4, part; 1941 c 252 § 12, part; Rem. Supp. 1947 § 8340-35, part. (ii) 1947 c 203 § 1, part; 1945 c 111 § 3, part; 1943 c 118 § 2, part; 1941 c 252 § 11, part; Rem. Supp. 1947 § 8340-34, part; prior: 1925 ex.s. c 129 §§ 10, 11. Formerly RCW 18.85.140.]

Additional notes found at www.leg.wa.gov

18.85.201 Responsibility for conduct of subordinates.

Responsibility for any real estate broker, managing broker, or branch manager in conduct covered by this chapter shall rest with the designated broker to which such licensees shall be licensed.

In addition to the designated broker, a branch manager shall bear responsibility for brokers and managing brokers operating under the branch manager at a branch office. [2008 c 23 § 20; 1997 c 322 § 12; 1977 ex.s. c 370 § 6; 1972 ex.s. c 139 § 14. Formerly RCW 18.85.155.]

18.85.211 Licenses—Renewal—Continuing education.

All real estate brokers and managing brokers shall furnish proof as prescribed by rule of the director that they have successfully completed at least the required minimum number of thirty clock hours of instruction every two years in real estate courses approved by the director to renew their licenses. The director may adopt rules to limit the number of hours of distance education courses that may be used for license renewal. Up to fifteen clock hours of instruction in excess of the required thirty clock hours acquired within the immediately preceding two-year period may be carried forward for credit in a subsequent two-year period. Examinations shall not be required to fulfill any part of the education requirement in this section. [2008 c 23 § 22; 1997 c 322 § 13; 1991 c 225 § 1; 1988 c 205 § 1. Formerly RCW 18.85.165.]

18.85.221 Licenses—Names—Restrictions as to use.

No license issued under the provisions of this chapter shall authorize any person other than the person named on the license to do any act by virtue thereof nor to operate in any other manner than under the name appearing on the license. A real estate firm has the option to utilize one or more assumed names in the conduct and operation of the firm's real estate business. However, before using a name other than that appearing on the license, the firm must obtain a separate license for each and every additional assumed name. All real estate brokerage services shall be conducted in the name of the real estate firm or its licensed assumed name or names. [2008 c 23 § 23; 1997 c 322 § 14; 1972 ex.s. c 139 § 16; 1951 c 222 § 14; 1945 c 111 § 2; 1941 c 252 § 10; Rem. Supp. 1945 § 8340-33. Prior: 1925 ex.s. c 129 § 9. Formerly RCW 18.85.170.]

18.85.231 Licenses—Office or records depositories required—Record maintenance and production.

Every licensed real estate firm must have and maintain an office or records depositories accessible in this state to representatives of the director. The firm must maintain and produce a complete set of records as required by this chapter. The director may prescribe rules for alternative and electronic record storage. [2008 c 23 § 24; 1997 c 322 § 15; 1957 c 52 § 41; 1951 c 222 § 15. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947

§ 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.180.]

18.85.241 Licenses—Branch office. A designated broker may apply to the director for authority to establish one or more branch offices under the same name as the real estate firm upon the payment of a fee as prescribed by the director by rule. The director shall issue a duplicate license for each of the branch offices showing the location of the real estate firm and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. Each branch office shall be required to have a branch manager who shall be a managing broker authorized by the designated broker to perform the duties of a branch manager.

A branch office license shall not be required where real estate sales activity is conducted on and, limited to a particular subdivision or tract, if a licensed office or branch office is located within thirty-five miles of the subdivision or tract. [2008 c 23 § 25; 1989 c 161 § 3; 1987 c 332 § 6; 1977 ex.s. c 24 § 5; 1972 ex.s. c 139 § 17; 1957 c 52 § 42. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.190.]

18.85.255 Licenses—Change of location. A designated broker, managing broker, or firm shall give notice in writing to the director of any change of that licensee's business or records depository location. Upon the surrender of the original license for the business and a payment of a fee as prescribed by the director by rule, the director shall issue a new license covering the new location. [2008 c 23 § 26; 1987 c 332 § 7; 1971 ex.s. c 266 § 17; 1957 c 52 § 43. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.200.]

18.85.265 Inactive licenses. (1) Any license issued under this chapter and not otherwise revoked is deemed "inactive" at any time it is delivered to the director. Until reissued under this chapter, the holder of an inactive license is prohibited from conducting real estate brokerage services.

(2) An inactive license may be renewed on the same terms and conditions as an active license, except that a person with an inactive license need not comply with the education requirements of RCW 18.85.101(1)(c) or 18.85.211. Failure to renew shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with this chapter and the rules adopted pursuant thereto. If a holder has an inactive license for more than three years, the holder must show proof of successfully completing a thirty clock hour course in real estate within one year before the application for active status. Holders employed by the state and conducting real estate transactions on behalf of the state are exempt from this course requirement.

(4) The provisions of this chapter relating to the denial, suspension, and revocation of a license are applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have

been initiated, the license shall remain inactive until the proceedings have been completed. [2008 c 23 § 28; 1994 c 291 § 3; 1988 c 205 § 4. Prior: 1987 c 514 § 1; 1987 c 332 § 17; 1985 c 162 § 4; 1977 ex.s. c 370 § 8. Formerly RCW 18.85.215.]

Additional notes found at www.leg.wa.gov

18.85.275 Designated broker or managing broker—

Authority and duties. (1) The designated broker or managing broker shall supervise the conduct of brokers and managing brokers for compliance with this chapter, chapter 18.235 RCW, and RCW 18.86.030.

(2) Listings, transactions, management agreements, and other contracts relating to providing brokerage services are property of the real estate firm. Brokers shall timely deliver to their appointed managing broker all funds and records required to be held or maintained by the real estate firm. A managing broker is responsible for such funds and records only after they are received from the broker. A managing broker shall timely deliver to the designated broker all funds and records required to be held or maintained by the real estate firm. The designated broker is responsible for such funds and records only after they are received from the managing broker or broker.

(3) The designated broker may delegate by written agreement the duties of safe handling of client funds, maintenance of trust accounts, and transaction and trust account records, along with supervision of brokers, to a managing broker licensed to the firm. The designated broker shall maintain a record of the firm's managing brokers and delegations to managing brokers.

(4) The designated broker or the designated broker's delegate has the authority to amend, modify, bind, create, rescind, terminate, or release real estate brokerage service contracts on behalf of the real estate firm. The designated broker has the authority to accept new or transferred licensees to represent the real estate firm.

(5) A broker who supervises or exercises right of control over other brokers in the performance of real estate brokerage services must be licensed as a managing broker.

(6) During the first two years of a broker's licensure, a managing broker must provide a heightened level of supervision as provided by rule of the director. [2008 c 23 § 21.]

18.85.285 Transactions and recordkeeping—Trust

accounts—Requirements. (1) Brokers and managing brokers must submit complete copies of their transactions to their firm. The designated broker shall keep adequate records of all real estate transactions handled by or through the firm or firms to which the designated broker is registered. The records shall include, but are not limited to, a copy of the purchase and sale agreement, earnest money receipt, and an itemization of the receipts and disbursements with each transaction. These records and all other records specified by the director by rule are open to inspection by the director or the director's authorized representatives.

(2) If any licensee exercises control over real estate transaction funds, those funds are considered trust funds.

(3) Every real estate licensee shall deliver or cause to be delivered to all parties signing the same, within a reasonable time after signing, purchase and sale agreements, listing

agreements, and all other like or similar instruments signed by the parties.

(4) Every real estate firm that keeps separate real estate trust fund accounts must keep the accounts in a recognized Washington state depository. A real estate firm must maintain an adequate amount of funds in the trust fund accounts to facilitate the opening of the trust fund accounts or to prevent the closing of the trust fund accounts.

(5) All licensees shall keep separate and apart and physically segregated from the licensees' own funds, all funds or moneys including advance fees of clients that are being held by the licensees pending the closing of a real estate sale or transaction, or that have been collected for the clients and are being held for disbursement for or to the clients.

(6) A firm is not required to maintain a trust fund account for transactions concerning a purchase and sale agreement that instructs the broker to deliver the earnest money check directly to a named closing agent or to the seller.

(7) Brokers must deposit all funds into their firm's trust bank account the next banking day following receipt of the funds unless the purchase and sale agreement provides for deferred deposit or delivery. In that event, the broker must promptly deposit or deliver funds in accordance with the terms of the purchase and sale agreement.

(8)(a) If a real estate broker receives or maintains earnest money or client funds for deposit, the real estate firm shall maintain a pooled interest-bearing trust account for deposit of client funds, with the exception of property management trust accounts.

(b) The interest accruing on this account, net of any reasonable and appropriate financial institution service charges or fees, shall be paid to the state treasurer for deposit in the Washington housing trust fund created in RCW 43.185.030 and the real estate education program account created in RCW 18.85.321. Appropriate service charges or fees are those charges made by financial institutions on other demand deposit or "now" accounts. The firm or designated broker is not required to notify the client of the intended use of the funds.

(c) The department shall adopt rules that will serve as guidelines in the choice of an account specified in this subsection.

(9) If trust funds are claimed by more than one party, the designated broker or designated broker's delegate must promptly provide written notification to all contracting parties to a real estate transaction of the intent of the designated broker or designated broker's delegate to disburse client funds. The notification must include the names and addresses of all parties to the contract, the amount of money held and to whom it will be disbursed, and the date of disbursement that must occur no later than thirty consecutive days after the notification date.

(10) For an account created under subsection (8) of this section, the designated or managing broker shall direct the depository institution to:

(a) Remit interest or dividends, net of any reasonable and appropriate service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the state treasurer for deposit in the housing

trust fund created by RCW 43.185.030 and the real estate education program account created in RCW 18.85.321; and

(b) Transmit to the *director of community, trade, and economic development a statement showing the name of the person or entity for whom the remittance is spent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of the statement to be transmitted to the depositing person or firm.

(11) The *director of community, trade, and economic development shall forward a copy of the reports required by subsection (10) of this section to the department to aid in the enforcement of the requirements of this section consistent with the normal enforcement and auditing practices of the department.

(12)(a) This section does not relieve any real estate broker, managing broker, or firm of any obligation with respect to the safekeeping of clients' funds.

(b) Any violation by real estate brokers, managing brokers, or firms of any of the provisions of this section, RCW 18.85.361, or chapter 18.235 RCW is grounds for disciplinary action against the licenses issued to the brokers, managing brokers, or firms. [2008 c 23 § 37; 1999 c 48 § 1; 1995 c 399 § 7; 1993 c 50 § 2; 1988 c 286 § 2; 1987 c 513 § 1; 1957 c 52 § 44; 1953 c 235 § 13; 1951 c 222 § 19. Prior: 1947 c 203 § 4, part; 1945 c 111 § 7, part; 1943 c 118 § 4, part; 1941 c 252 § 18, part; Rem. Supp. 1947 § 8340-41, part; prior: 1925 ex.s. c 129 § 12, part. Formerly RCW 18.85.310.]

*Reviser's note: The "director of community, trade, and economic development" was changed to the "director of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

18.85.291 Brokers and managing brokers—Termination of affiliation with firm—Notice. The licenses of a real estate broker and managing broker shall be kept at all times by their firm and when real estate brokers or managing brokers cease to represent the firm, their licenses shall cease to be in force. Brokers and managing brokers must submit written notification to the designated broker for their firm when they terminate affiliation with their firm. The firm, through the designated broker, shall give notice to the director and such notice shall be accompanied by and include the surrender of the broker's or managing broker's license. Failure of any designated broker for the firm to promptly notify the director of a broker's or managing broker's termination after demand by the affected broker or managing broker shall be grounds for disciplinary action against the firm and designated broker. Upon application of the broker or managing broker, and the payment of a fee as prescribed by the director by rule, the director shall issue a new license for the unexpired term, if the broker or managing broker is otherwise entitled thereto. When the firm terminates a broker's or managing broker's services for a violation of this chapter, or chapter 18.86 or 18.235 RCW, the firm shall immediately file a written statement of the facts in reference thereto with the director. [2008 c 23 § 40; 1987 c 332 § 14; 1953 c 235 § 14; 1947 c 203 § 7; 1943 c 118 § 7; 1941 c 252 § 26; Rem. Supp. 1947 § 8340-49. Prior: 1925 ex.s. c 129 § 21. Formerly RCW 18.85.320.]

(2016 Ed.)

18.85.301 Sharing commissions. (1) Except under subsection (4) of this section, it is unlawful for any licensed firm, broker, or managing broker to pay any part of the licensee's commission or other compensation to any person who performs real estate brokerage services and who is not a licensed firm, real estate broker, or managing broker in any state of the United States or its possessions or any foreign jurisdiction with a real estate regulatory program.

(2) Except under subsection (4) of this section, it is unlawful for any licensed real estate firm to pay any part of the firm's commission from brokerage services or other compensation to a real estate broker or managing broker not licensed to do business for the firm.

(3) Except under subsection (4) of this section, it is unlawful for licensed brokers or managing brokers to pay any part of their commission from brokerage services or other compensation to any person, whether licensed or not, except through the firm's designated broker.

(4) A commission may be shared with a manufactured housing retailer, licensed under chapter 46.70 RCW, on the sale of personal property manufactured housing sold in conjunction with the sale or lease of land. [2008 c 23 § 41; 1998 c 46 § 3; 1997 c 322 § 20; 1953 c 235 § 15; 1943 c 118 § 6; 1941 c 252 § 24; Rem. Supp. 1943 § 8340-47. Formerly RCW 18.85.330.]

18.85.311 Distribution of interest from brokers' trust accounts. Remittances received by the state treasurer pursuant to RCW 18.85.285 shall be divided between the housing trust fund created by RCW 43.185.030, which shall receive seventy-five percent and the real estate education program account created by RCW 18.85.321, which shall receive twenty-five percent. [2008 c 23 § 38; 1993 c 50 § 3; 1987 c 513 § 9. Formerly RCW 18.85.315.]

Additional notes found at www.leg.wa.gov

18.85.321 Real estate education program account. The real estate education program account is created in the custody of the state treasurer. All moneys received for credit to this account pursuant to RCW 18.85.311 and all moneys derived from fines imposed under this chapter shall be deposited into the account. Expenditures from the account may be made only upon the authorization of the director or a duly authorized representative of the director, and may be used only for the purposes of carrying out the director's programs for education of real estate licensees, others in the real estate industry, and members of the public as described in RCW 18.85.041(6). All expenses and costs relating to the implementation or administration of, or payment of contract fees or charges for, the director's real estate education programs may be paid from this account. The account is subject to appropriation under chapter 43.88 RCW. [2008 c 23 § 39; 1997 c 322 § 19; 1993 c 50 § 4. Formerly RCW 18.85.317.]

Additional notes found at www.leg.wa.gov

18.85.331 License required—Prerequisite to suit for commission. It is unlawful for any person to act as a real estate broker, managing broker, or real estate firm without first obtaining a license therefor, and otherwise complying with the provisions of this chapter.

No suit or action shall be brought for the collection of compensation as a real estate broker, real estate firm, managing broker, or designated broker, without alleging and proving that the plaintiff was a duly licensed real estate broker, managing broker, or real estate firm before the time of offering to perform any real estate transaction or procuring any promise or contract for the payment of compensation for any contemplated real estate transaction. [2008 c 23 § 15; 1997 c 322 § 6; 1972 ex.s. c 139 § 9; 1951 c 222 § 8. Formerly: (i) 1941 c 252 § 6; Rem. Supp. 1941 § 8340-29. (ii) 1941 c 252 § 25; Rem. Supp. 1941 § 8340-48. Formerly RCW 18.85.100.]

18.85.341 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any natural person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Before the suspension, the agency must provide the individual an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The individual's license shall not be reissued until the individual provides the director a written release issued by the lending agency stating that the individual is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the individual has continued to meet all other requirements for licensure during the suspension, reinstatement is automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [2008 c 23 § 30; 1996 c 293 § 14. Formerly RCW 18.85.225.]

Additional notes found at www.leg.wa.gov

18.85.351 License suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend the license of any broker or managing broker who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as an individual who is not in compliance with a support order or a visitation order. If the individual has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the director's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order. [2008 c 23 § 31; 1997 c 58 § 826. Formerly RCW 18.85.227.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.85.361 Disciplinary action—Grounds. In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action against any person engaged in the business or acting in the capacity of a real estate broker, managing broker, designated broker, or real estate firm, regardless of whether the transaction was for the person's own account or in a capacity as broker, managing broker, designated broker, or real estate firm, and may impose any of the sanctions and fines specified in RCW 18.235.110 for any holder or applicant who is guilty of:

(1) Violating any of the provisions of this chapter or any lawful rules made by the director pursuant thereto or violating a provision of chapter 64.36, 19.105, or 18.235 RCW or RCW 18.86.030 or the rules adopted under those chapters or section;

(2) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions, or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(3) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(4) Accepting the services of, or continuing in a representative capacity, any broker or managing broker who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(5) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to the person's own use or to the use of that person's principal or of any other person, when delivered in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract, or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, is prima facie evidence of such conversion;

(6) Failing, upon demand, to disclose any information within the person's knowledge, or to produce any document, book, or record in the person's possession for inspection by the director or the director's authorized representatives acting by authority of law;

(7) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(8) Advertising in any manner without including the real estate firm's name or assumed name as licensed in a clear and conspicuous manner in the advertisement; except, that real estate brokers, managing brokers, or firms advertising their personally owned real property must only disclose that they hold a real estate license;

(9) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner before the owner's acceptance of the offer to purchase, and such fact is shown in the purchase and sale agreement;

(10) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure in writing of all the facts to all the parties interested in the transaction;

(11) Accepting, taking, or charging any undisclosed commission, rebate, or direct profit on expenditures made for the principal;

(12) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(13) Issuing a report on any real property in which the broker, managing broker, or real estate firm has an interest unless that interest is clearly stated in the report;

(14) Misrepresentation of membership in any state or national real estate association;

(15) Discrimination against any person in hiring or in real estate brokerage service activity, on the basis of any of the provisions of any local, county, state, or federal antidiscrimination law;

(16) Failing to keep an escrow or trustee account of funds deposited relating to a real estate transaction, for a period of three years, showing to whom paid, and other pertinent information as the director may require, such records to be available to the director, or the director's representatives, on demand, or upon written notice given to the bank;

(17) In the case of a firm and its designated broker, failing to preserve records relating to any real estate transaction for three years following the submission of the records to the firm;

(18) Failing to furnish a copy of any listing, sale, lease, or other contract relevant to a real estate transaction to all signatories thereof within a reasonable time following execution;

(19) In the case of a broker or managing broker, acceptance of a commission or any valuable consideration for the performance of any acts specified in this chapter, from any person, except the licensed real estate firm with whom the broker or managing broker is licensed;

(20) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing the expectation to his or her principal;

(21) Buying, selling, or leasing directly, or through a third party, any interest in real property without disclosing in writing that the person is a real estate licensee;

(22) In the case of real estate firms, and managing and designated brokers, failing to exercise adequate supervision over the activities of their brokers and managing brokers within the scope of this chapter;

(23) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness, or incompetence;

(24) Acting as a vehicle dealer, as defined in RCW 46.70.011, without having a license to do so; or

(25) Failing to ensure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile or manufactured home as a broker, managing or designated broker, or firm. [2008 c 23 § 32; 2002 c 86 § 230; 1999 c 46 § 1; 1997 c 322 § 17; 1996 c 179 § 18; 1990 c 85 § 1; 1988 c 205 § 5. Prior: 1987 c 370 § 15; 1987 c 332 § 9; 1979 c 25 § 4; prior: 1977 ex.s. c 261 § 1; 1977 ex.s. c 204 § 1; 1972 ex.s. c 139 § 19; 1967 c 22 § 3; 1953 c 235 § 12; 1951 c 222 § 16; 1947 c 203 § 5; 1945 c 111 § 8; 1943 c 118 § 5; 1941 c 252 § 19; Rem. Supp. 1947 § 8340-42; prior: 1925 ex.s. c 129 § 13. Formerly RCW 18.85.230.]

False advertising: Chapter 9.04 RCW.

Obstructing justice: Chapter 9A.72 RCW.

(2016 Ed.)

Additional notes found at www.leg.wa.gov

18.85.370 Disciplinary action—Director's delegation of authority. The director may authorize one or more assistants to perform the director's duties with reference to disciplinary action. [2008 c 23 § 33; 1988 c 205 § 6; 1987 c 332 § 10; 1957 c 52 § 45. Prior: 1945 c 111 § 9, part; 1941 c 252 § 20, part; 1925 ex.s. c 129 § 14, part; Rem. Supp. 1945 § 8340-43, part. Formerly RCW 18.85.240.]

18.85.380 Disciplinary action—Hearing—Conduct of. The hearing officer shall cause a transcript of all adjudicative proceedings to be kept by a reporter and shall upon request after completion thereof, furnish a copy of the transcript to the licensed person or applicant accused in the proceedings at the expense of the licensee or applicant. The hearing officer shall certify the transcript of proceedings to be true and correct. If the director finds that the statement or accusation is not proved by a fair preponderance of evidence, the director shall notify the licensee or applicant and the person making the accusation and shall dismiss the case. [2008 c 23 § 34; 2002 c 86 § 231; 1987 c 332 § 12; 1951 c 222 § 24. Formerly RCW 18.85.261.]

Additional notes found at www.leg.wa.gov

18.85.390 Disciplinary action—Order—Appeal. If the director decides, after an adjudicative hearing, that the evidence supports the accusation by a preponderance of evidence, the director may impose sanctions authorized under RCW 18.85.041. In such event the director shall enter an order to that effect and shall file the same in the director's office and immediately mail a copy to the affected party at the address of record with the department. Upon instituting appeal in the superior court, the appellant shall give a cash bond to the state of Washington, which bond shall be filed with the clerk of the court, in the sum of one thousand dollars to be approved by the judge of said court, conditioned to pay all costs that may be awarded against an appellant in the event of an adverse decision, the bond and notice to be filed within thirty days from the date of the director's decision. [2008 c 23 § 35; 2002 c 86 § 232; 1989 c 175 § 66; 1988 c 205 § 8; 1987 c 332 § 13; 1972 ex.s. c 139 § 20; 1951 c 222 § 25. Formerly RCW 18.85.271.]

Additional notes found at www.leg.wa.gov

18.85.401 Appeal—Transcript—Cost. The director shall prepare at appellant's expense and shall certify a transcript of the whole record of all matters involved in the appeal, which the director shall deliver to the court in which the appeal is pending. The appellant is notified of the filing of the transcript and the cost thereof and shall within fifteen days thereafter pay the cost of said transcript. If the cost is not paid in full within fifteen days the appeal is dismissed. [2008 c 23 § 36; 1997 c 322 § 18; 1951 c 222 § 26. Formerly RCW 18.85.281.]

18.85.411 Violations—Penalty. Any person acting as a real estate broker, managing broker, or real estate firm, without a license, or violating any of the provisions of this chapter, is guilty of a gross misdemeanor. [2008 c 23 § 42; 1997 c 322 § 21; 1951 c 222 § 20; 1941 c 252 § 23; Rem.

Supp. 1941 § 8340-46. Prior: 1925 ex.s. c 129 § 17. Formerly RCW 18.85.340.]

18.85.420 Attorney general as legal advisor. The attorney general shall give the director opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the director, and shall act as attorney for the director in all actions and proceedings brought by or against the director under or pursuant to any provisions of this chapter. [2008 c 23 § 43; 1997 c 322 § 23; 1941 c 252 § 9; Rem. Supp. 1941 § 8340-32. Prior: 1925 ex.s. c 129 § 8. Formerly RCW 18.85.345.]

18.85.430 Enforcement provisions. The director may refer a complaint for violation of any section of this chapter before any court of competent jurisdiction.

The prosecuting attorney of each county shall prosecute any violation of the provisions of this chapter that occurs in the prosecuting attorney's county, and if the prosecuting attorney fails to act, the director may request the attorney general to take action in lieu of the prosecuting attorney.

Process issued by the director shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record, or may be mailed by certified mail, return receipt requested, to the licensee's last business address of record in the office of the director.

Whenever the director believes from evidence satisfactory to the director that a person has violated any of the provisions of this chapter, or any order, license, decision, demand or requirement, or any part or provision thereof, the director may bring an action, in the superior court in the county wherein the person resides, to enjoin that person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof. In this action an order or judgment may be entered awarding a preliminary or final injunction as may be proper.

The director may petition the superior court in any county in this state for the immediate appointment of a receiver to take over, operate or close any real estate office in this state which is found, upon inspection of its books and records to be operating in violation of the provisions of this chapter, pending a hearing. [2008 c 23 § 44; 1997 c 322 § 24; 1967 c 22 § 2; 1957 c 52 § 48; 1953 c 235 § 16. Prior: (i) 1941 c 252 § 21, part; Rem. Supp. 1941 § 8340-44, part. (ii) 1947 c 203 § 6; 1941 c 252 § 22; Rem. Supp. 1947 § 8340-45. Formerly RCW 18.85.350.]

18.85.440 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 233. Formerly RCW 18.85.550.]

Additional notes found at www.leg.wa.gov

18.85.451 Fee assessed. (Expires September 30, 2025.) (1) A fee of ten dollars is created and shall be assessed on each real estate broker and managing broker's original license and upon each renewal of a license with an expiration date

after October 1, 1999, including renewals of inactive licenses.

(2) This section expires September 30, 2025. [2015 c 175 § 1; 2010 c 156 § 1; 2008 c 23 § 45; 2005 c 185 § 1; 1999 c 192 § 1. Formerly RCW 18.85.520.]

Effective date—2010 c 156: "This act takes effect July 1, 2010." [2010 c 156 § 4.]

18.85.461 Washington real estate research account—Creation. (Expires September 30, 2025.) (1) The Washington real estate research account is created in the state treasury. All receipts from the fee under RCW 18.85.451 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 18.85.471.

(2) During the 2015-2017 fiscal biennium, the legislature may transfer moneys from the real estate research account to the state general fund such amounts as reflect the excess fund balance of the account.

(3) This section expires September 30, 2025. [2016 1st sp.s. c 36 § 915; 2015 c 175 § 2; 2010 c 156 § 2; 2008 c 23 § 46; 2005 c 185 § 2; 1999 c 192 § 2. Formerly RCW 18.85.530.]

Effective date—2016 1st sp.s. c 36: See note following RCW 18.20.430.

Effective date—2010 c 156: See note following RCW 18.85.451.

18.85.471 Real estate research center—Purpose. (Expires September 30, 2025.) (1) The purpose of a real estate research center in Washington state is to provide credible research, value-added information, education services, and project-oriented research to real estate licensees, real estate consumers, real estate service providers, institutional customers, public agencies, and communities in Washington state and the Pacific Northwest region. The center may:

(a) Conduct studies and research on affordable housing and strategies to meet the affordable housing needs of the state;

(b) Conduct studies in all areas directly or indirectly related to real estate and urban or rural economics and economically isolated communities;

(c) Disseminate findings and results of real estate research conducted at or by the center or elsewhere, using a variety of dissemination media;

(d) Supply research results and educational expertise to the Washington state real estate commission to support its regulatory functions, as requested;

(e) Prepare information of interest to real estate consumers and make the information available to the general public, universities, or colleges, and appropriate state agencies;

(f) Encourage economic growth and development within the state of Washington;

(g) Support the professional development and continuing education of real estate licensees in Washington;

(h) Study and recommend changes in state statutes relating to real estate; and

(i) Develop a vacancy rate standard for low-income housing in the state.

(2) The director shall establish a memorandum of understanding with an institution of higher learning that establishes

a real estate research center for the purposes under subsection (1) of this section.

(3) This section expires September 30, 2025. [2015 c 175 § 3; 2010 c 156 § 3; 2005 c 185 § 3; 2002 c 294 § 5; 1999 c 192 § 3. Formerly RCW 18.85.540.]

Effective date—2010 c 156: See note following RCW 18.85.451.

Findings—2002 c 294: See note following RCW 36.22.178.

18.85.481 Changes in licensing categories—Effect on status of proceedings, existing rules, forms, and licenses.

(1) The changes made by chapter 23, Laws of 2008 regarding the licensing categories do not affect the status of a complaint, investigation, or other proceeding. A rule or form adopted by the director before July 1, 2010, remains in effect as a rule or form of the department until amended or changed.

(2) After July 1, 2010, a salesperson's license is continued in effect but is recognized by the department as a broker's license; and associate broker's, branch manager's, and designated broker's licenses are continued in effect but are recognized by the department as managing broker's licenses. All licensees are required to take a transition course by the licensee's first renewal date after July 1, 2010. The department shall approve the transition course for continuing education credit. All licenses retain their renewal dates established prior to July 1, 2010. New licenses may be issued after completion of the transition course and at the time of the licensee's first renewal date after July 1, 2010. [2008 c 23 § 48.]

18.85.490 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 6.]

18.85.930 Effective date—2008 c 23. This act takes effect July 1, 2010. [2008 c 23 § 51.]

Chapter 18.86 RCW

REAL ESTATE BROKERAGE RELATIONSHIPS

Sections

18.86.010	Definitions.
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18.86.030	Duties of broker.
18.86.031	Violation of licensing law.
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18.86.110	Application.
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18.86.902	Effective date—1996 c 179.

18.86.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency relationship" means the agency relationship created under this chapter or by written agreement between a

real estate firm and a buyer and/or seller relating to the performance of real estate brokerage services.

(2) "Agent" means a broker who has entered into an agency relationship with a buyer or seller.

(3) "Broker" means broker, managing broker, and designated broker, collectively, as defined in chapter 18.85 RCW, unless the context requires the terms to be considered separately.

(4) "Business opportunity" means and includes a business, business opportunity, and goodwill of an existing business, or any one or combination thereof when the transaction or business includes an interest in real property.

(5) "Buyer" means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

(6) "Buyer's agent" means a broker who has entered into an agency relationship with only the buyer in a real estate transaction, and includes subagents engaged by a buyer's agent.

(7) "Confidential information" means information from or concerning a principal of a broker that:

(a) Was acquired by the broker during the course of an agency relationship with the principal;

(b) The principal reasonably expects to be kept confidential;

(c) The principal has not disclosed or authorized to be disclosed to third parties;

(d) Would, if disclosed, operate to the detriment of the principal; and

(e) The principal personally would not be obligated to disclose to the other party.

(8) "Dual agent" means a broker who has entered into an agency relationship with both the buyer and seller in the same transaction.

(9) "Material fact" means information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a real estate transaction, or operates to materially impair or defeat the purpose of the transaction. The fact or suspicion that the property, or any neighboring property, is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, gang-related activity, political or religious activity, or other act, occurrence, or use not adversely affecting the physical condition of or title to the property is not a material fact.

(10) "Principal" means a buyer or a seller who has entered into an agency relationship with a broker.

(11) "Real estate brokerage services" means the rendering of services for which a real estate license is required under chapter 18.85 RCW.

(12) "Real estate firm" or "firm" have the same meaning as defined in chapter 18.85 RCW.

(13) "Real estate transaction" or "transaction" means an actual or prospective transaction involving a purchase, sale, option, or exchange of any interest in real property or a business opportunity, or a lease or rental of real property. For purposes of this chapter, a prospective transaction does not exist until a written offer has been signed by at least one of the parties.

(14) "Seller" means an actual or prospective seller in a real estate transaction, or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

(15) "Seller's agent" means a broker who has entered into an agency relationship with only the seller in a real estate transaction, and includes subagents engaged by a seller's agent.

(16) "Subagent" means a broker who is engaged to act on behalf of a principal by the principal's agent where the principal has authorized the broker in writing to appoint subagents. [2013 c 58 § 1; 1996 c 179 § 1.]

18.86.020 Agency relationship. (1) A broker who performs real estate brokerage services for a buyer is a buyer's agent unless the:

(a) Broker's firm has appointed the broker to represent the seller pursuant to a written agency agreement between the firm and the seller, in which case the broker is a seller's agent;

(b) Broker has entered into a subagency agreement with the seller's agent's firm, in which case the broker is a seller's agent;

(c) Broker's firm has appointed the broker to represent the seller pursuant to a written agency agreement between the firm and the seller, and the broker's firm has appointed the broker to represent the buyer pursuant to a written agency agreement between the firm and the buyer, in which case the broker is a dual agent;

(d) Broker is the seller or one of the sellers; or

(e) Parties agree otherwise in writing after the broker has complied with RCW 18.86.030(1)(f).

(2) In a transaction in which different brokers affiliated with the same firm represent different parties, the firm's designated broker and any managing broker responsible for the supervision of both brokers, is a dual agent, and must obtain the written consent of both parties as required under RCW 18.86.060. In such case, each of the brokers shall solely represent the party with whom the broker has an agency relationship, unless all parties agree in writing that the broker is a dual agent.

(3) A broker may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the broker complies with this chapter in establishing the relationships for each transaction. [2013 c 58 § 2; 1997 c 217 § 1; 1996 c 179 § 2.]

Additional notes found at www.leg.wa.gov

18.86.030 Duties of broker. (1) Regardless of whether a broker is an agent, the broker owes to all parties to whom the broker renders real estate brokerage services the following duties, which may not be waived:

(a) To exercise reasonable skill and care;

(b) To deal honestly and in good faith;

(c) To present all written offers, written notices and other written communications to and from either party in a timely manner, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase;

(d) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party;

provided that this subsection shall not be construed to imply any duty to investigate matters that the broker has not agreed to investigate;

(e) To account in a timely manner for all money and property received from or on behalf of either party;

(f) To provide a pamphlet on the law of real estate agency in the form prescribed in RCW 18.86.120 to all parties to whom the broker renders real estate brokerage services, before the party signs an agency agreement with the broker, signs an offer in a real estate transaction handled by the broker, consents to dual agency, or waives any rights, under RCW 18.86.020(1)(e), 18.86.040(1)(e), 18.86.050(1)(e), or 18.86.060(2) (e) or (f), whichever occurs earliest; and

(g) To disclose in writing to all parties to whom the broker renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the broker, whether the broker represents the buyer, the seller, both parties, or neither party. The disclosure shall be set forth in a separate paragraph entitled "Agency Disclosure" in the agreement between the buyer and seller or in a separate writing entitled "Agency Disclosure."

(2) Unless otherwise agreed, a broker owes no duty to conduct an independent inspection of the property or to conduct an independent investigation of either party's financial condition, and owes no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by the broker to be reliable. [2013 c 58 § 3; 1996 c 179 § 3.]

18.86.031 Violation of licensing law. A violation of RCW 18.86.030 is a violation of RCW 18.85.361. [2013 c 58 § 4; 1996 c 179 § 14.]

18.86.040 Seller's agent—Duties. (1) Unless additional duties are agreed to in writing signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;

(b) To timely disclose to the seller any conflicts of interest;

(c) To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the seller's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.

(2)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers affiliated with the same firm in competing trans-

actions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest. [2013 c 58 § 5; 1997 c 217 § 2; 1996 c 179 § 4.]

Additional notes found at www.leg.wa.gov

18.86.050 Buyer's agent—Duties. (1) Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;

(b) To timely disclose to the buyer any conflicts of interest;

(c) To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the buyer's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the buyer's agent.

(2)(a) The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers affiliated with the same firm in competing transactions involving the same property does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest. [2013 c 58 § 6; 1997 c 217 § 3; 1996 c 179 § 5.]

Additional notes found at www.leg.wa.gov

18.86.060 Dual agent—Duties. (1) Notwithstanding any other provision of this chapter, a broker may act as a dual agent only with the written consent of both parties to the transaction after the dual agent has complied with RCW 18.86.030(1)(f), which consent must include a statement of the terms of compensation.

(2) Unless additional duties are agreed to in writing signed by a dual agent, the duties of a dual agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:

(a) To take no action that is adverse or detrimental to either party's interest in a transaction;

(b) To timely disclose to both parties any conflicts of interest;

(c) To advise both parties to seek expert advice on matters relating to the transaction that are beyond the dual agent's expertise;

(d) Not to disclose any confidential information from or about either party, except under subpoena or court order, even after termination of the agency relationship;

(2016 Ed.)

(e) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and

(f) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a dual agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent.

(3)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(b) The representation of more than one seller by different brokers licensed to the same firm in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.

(4)(a) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction by a dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different brokers licensed to the same firm in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest. [2013 c 58 § 7; 1997 c 217 § 4; 1996 c 179 § 6.]

Additional notes found at www.leg.wa.gov

18.86.070 Duration of agency relationship. (1) The agency relationships set forth in this chapter commence at the time that the broker undertakes to provide real estate brokerage services to a principal and continue until the earliest of the following:

(a) Completion of performance by the broker;

(b) Expiration of the term agreed upon by the parties;

(c) Termination of the relationship by mutual agreement of the parties; or

(d) Termination of the relationship by notice from either party to the other. However, such a termination does not affect the contractual rights of either party.

(2) Except as otherwise agreed to in writing, a broker owes no further duty after termination of the agency relationship, other than the duties of:

(a) Accounting for all moneys and property received during the relationship; and

(b) Not disclosing confidential information. [2013 c 58 § 8; 1997 c 217 § 5; 1996 c 179 § 7.]

Additional notes found at www.leg.wa.gov

18.86.080 Compensation. (1) In any real estate transaction, a firm's compensation may be paid by the seller, the

buyer, a third party, or by sharing the compensation between firms.

(2) An agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the broker.

(3) A seller may agree that a seller's agent's firm may share with another firm the compensation paid by the seller.

(4) A buyer may agree that a buyer's agent's firm may share with another firm the compensation paid by the buyer.

(5) A firm may be compensated by more than one party for real estate brokerage services in a real estate transaction, if those parties consent in writing at or before the time of signing an offer in the transaction.

(6) A firm may receive compensation based on the purchase price without breaching any duty to the buyer or seller.

(7) Nothing contained in this chapter negates the requirement that an agreement authorizing or employing a broker to sell or purchase real estate for compensation or a commission be in writing and signed by the seller or buyer. [2013 c 58 § 9; 1997 c 217 § 6; 1996 c 179 § 8.]

Additional notes found at www.leg.wa.gov

18.86.090 Vicarious liability. (1) A principal is not liable for an act, error, or omission by an agent or subagent of the principal arising out of an agency relationship:

(a) Unless the principal participated in or authorized the act, error, or omission; or

(b) Except to the extent that: (i) The principal benefited from the act, error, or omission; and (ii) the court determines that it is highly probable that the claimant would be unable to enforce a judgment against the agent or subagent.

(2) A broker is not liable for an act, error, or omission of a subagent under this chapter, unless that broker participated in or authorized the act, error or omission. This subsection does not limit the liability of a firm for an act, error, or omission by a broker licensed to the firm. [2013 c 58 § 10; 1996 c 179 § 9.]

18.86.100 Imputed knowledge and notice. (1) Unless otherwise agreed to in writing, a principal does not have knowledge or notice of any facts known by an agent or subagent of the principal that are not actually known by the principal.

(2) Unless otherwise agreed to in writing, a broker does not have knowledge or notice of any facts known by a subagent that are not actually known by the broker. This subsection does not limit the knowledge imputed to the designated broker or any managing broker responsible for the supervision of the broker of any facts known by the broker. [2013 c 58 § 11; 1996 c 179 § 10.]

18.86.110 Application. The duties under this chapter are statutory duties and not fiduciary duties. This chapter supersedes the fiduciary duties of an agent to a principal under the common law. The common law continues to apply to the parties in all other respects. This chapter does not affect the duties of a broker while engaging in the authorized or unauthorized practice of law as determined by the courts of this state. This chapter shall be construed broadly. [2013 c 58 § 12; 1996 c 179 § 11.]

18.86.120 Pamphlet on the law of real estate agency—Content—Definition. (1) The pamphlet required under RCW 18.86.030(1)(f) shall consist of the entire text of RCW 18.86.010 through 18.86.030 and 18.86.040 through 18.86.110 with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10-point type, the cover page shall be in print no smaller than 12-point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18-point type. The cover page shall be in the following form:

The Law of Real Estate Agency

This pamphlet describes your legal rights in dealing with a real estate firm or broker. Please read it carefully before signing any documents.

The following is only a brief summary of the attached law:

Sec. 1. Definitions. Defines the specific terms used in the law.

Sec. 2. Relationships between Brokers and the Public. Prescribes that a broker who works with a buyer or tenant represents that buyer or tenant—unless the broker is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also prescribes that in a transaction involving two different brokers licensed to the same real estate firm, the firm's designated broker and any managing broker responsible for the supervision of both brokers, are dual agents and each broker solely represents his or her client—unless the parties agree in writing that both brokers are dual agents.

Sec. 3. Duties of a Broker Generally. Prescribes the duties that are owed by all brokers, regardless of who the broker represents. Requires disclosure of the broker's agency relationship in a specific transaction.

Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a broker representing the seller or landlord only.

Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a broker representing the buyer or tenant only.

Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a broker representing both parties in the same transaction, and requires the written consent of both parties to the broker acting as a dual agent.

Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.

Sec. 8. Compensation. Allows real estate firms to share compensation with cooperating real estate firms. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.

Sec. 9. Vicarious Liability. Eliminates the liability of a party for the conduct of the party's agent or sub-

agent, unless the principal participated in or benefited from the conduct or the agent or subagent is insolvent. Also limits the liability of a broker for the conduct of a subagent.

Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.

Sec. 11. Interpretation. This law establishes statutory duties which replace common law fiduciary duties owed by an agent to a principal.

Sec. 12. Short Sale. Prescribes an additional duty of a firm representing the seller of owner-occupied real property in a short sale.

(2)(a) The pamphlet required under RCW 18.86.030(1)(f) must also include the following disclosure: When the seller of owner-occupied residential real property enters into a listing agreement with a real estate firm where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate firm to disclose to the seller in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate firm's commission.

(b) For the purposes of this subsection, "owner-occupied real property" means real property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower. [2013 c 58 § 13; 2012 c 185 § 2; 1997 c 217 § 7; 1996 c 179 § 13.]

Additional notes found at www.leg.wa.gov

18.86.900 Effective date—1996 c 179. This chapter shall take effect on January 1, 1997. This chapter does not apply to an agency relationship entered into before January 1, 1997, unless the principal and agent agree in writing that this chapter will, as of January 1, 1997, apply to such agency relationship. [1996 c 179 § 12.]

18.86.902 Effective date—1996 c 179. This act shall take effect January 1, 1997. [1996 c 179 § 19.]

Chapter 18.88A RCW NURSING ASSISTANTS

Sections

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18.88A.200	Delegation of nursing care tasks—Legislative finding.
18.88A.210	Delegation—Basic and specialized nurse delegation training requirements.
18.88A.230	Delegation—Liability—Reprisal or disciplinary action.

18.88A.010 Legislative declaration. (1) The legislature takes special note of the contributions made by nursing assistants in health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of patients. The legislature also recognizes the growing shortage of nurses as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

(2) The legislature finds and declares that:

(a) Occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized workforce in health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

(b) The quality of patient care in health care facilities is dependent upon the competence of the personnel who staff their facilities. To assure the availability of trained personnel in health care facilities the legislature recognizes the need for training programs for nursing assistants.

(c) Certified home care aides and medical assistants are a valuable potential source of nursing assistants who will be needed to meet the care needs of the state's growing aging population. To assure continued opportunity for recruitment into licensed nursing practice and career advancement for certified home care aides and medical assistants, nursing assistant training programs should recognize the relevant training and experience obtained by these credentialed professionals. By taking advantage of the authority granted under the federal social security act to certify nursing assistants through a state-approved competency evaluation program as a federally recognized alternative to the state-approved training and competency evaluation program, the legislature intends to increase the potential for recruitment into licensed nursing practice while maintaining a single standard for competency evaluation of certified nursing assistants.

(d) The registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare. [2010 c 169 § 1; 1991 c 16 § 1; 1989 c 300 § 3; 1988 c 267 § 1. Formerly RCW 18.52B.010.]

Conflict with federal requirements—2010 c 169: "If any part of this act is found by a federal agency to be in conflict with federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a necessary condition to the receipt of federal funds by the state." [2010 c 169 § 13.]

18.88A.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under RCW 18.88A.087 to meet the requirements of a state-approved nurse aide competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act.

(2) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the requirements of a state-approved nurse aide training and competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

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

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, licensed service provider under chapter 71.24 RCW other than an individual health care provider, or other entity for delivery of health care services as defined by the commission.

(7) "Medication assistant" means a nursing assistant-certified with a medication assistant endorsement issued under RCW 18.88A.082 who is authorized, in addition to his or her duties as a nursing assistant-certified, to administer certain medications and perform certain treatments in a nursing home under the supervision of a registered nurse under RCW 18.88A.082.

(8) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are:

(a) "Nursing assistant-certified," an individual certified under this chapter; and

(b) "Nursing assistant-registered," an individual registered under this chapter.

(9) "Nursing home" means a nursing home licensed under chapter 18.51 RCW.

(10) "Secretary" means the secretary of health. [2015 c 158 § 1; 2012 c 208 § 2. Prior: 2010 c 169 § 2; 1994 sp.s. c 9 § 708; 1991 c 16 § 2; (1991 c 3 § 221 repealed by 1991 sp.s. c 11 § 2); 1989 c 300 § 4; 1988 c 267 § 2. Formerly RCW 18.52B.020.]

Effective date—2012 c 208 §§ 2-10: "Sections 2 through 10 of this act take effect July 1, 2013." [2012 c 208 § 12.]

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

Nursing care quality assurance commission: Chapter 18.79 RCW.

Additional notes found at www.leg.wa.gov

18.88A.030 Scope of practice—Nursing home employment—Voluntary certification—Rules. (1)(a) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

(b) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

(c) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication unless delegated as a specific nursing task pursuant to this chapter or to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

(2)(a) A nursing assistant employed in a nursing home must have successfully obtained certification through: (i) An approved training program and the competency evaluation within four months after the date of employment; or (ii) alternative training and the competency evaluation prior to employment.

(b) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

(3) The commission may adopt rules to implement the provisions of this chapter. [2010 c 169 § 4; 1995 1st sp.s. c 18 § 52; 1994 sp.s. c 9 § 709; 1991 c 16 § 3; 1989 c 300 § 5; 1988 c 267 § 3. Formerly RCW 18.52B.030.]

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

Additional notes found at www.leg.wa.gov

18.88A.040 Registration and certification. (1) No person may practice or represent himself or herself as a nursing assistant-registered by use of any title or description without being registered by the department pursuant to this chapter.

(2) After October 1, 1990, no person may by use of any title or description, practice or represent himself or herself as a nursing assistant-certified without applying for certification, meeting the qualifications, and being certified by the department pursuant to this chapter.

(3) After July 1, 2013, no person may practice, or represent himself or herself by any title or description, as a medication assistant without a medication assistant endorsement issued under RCW 18.88A.082. [2012 c 208 § 4; 1991 c 16 § 4; 1989 c 300 § 6; 1988 c 267 § 4. Formerly RCW 18.52B.040.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

18.88A.050 Powers of secretary. In addition to any other authority provided by law, the secretary has the authority to:

(1) Set all nursing assistant certification, registration, medication assistant endorsement, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(2) Establish forms, procedures, and the competency evaluation necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a nursing assistant registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a nursing assistant certificate to any applicant who has met the training, competency evaluation, and conduct requirements for certification under this chapter;

(6) Issue a medication assistant endorsement to any applicant who has met the requirements of RCW 18.88A.082;

(7) Maintain the official record for the department of all applicants and persons with registrations, certificates, and medication assistant endorsements under this chapter;

(8) Exercise disciplinary authority as authorized in chapter 18.130 RCW;

(9) Deny registration to any applicant who fails to meet requirement for registration as a nursing assistant;

(10) Deny certification to applicants who do not meet the training, competency evaluation, and conduct requirements for certification as a nursing assistant; and

(11) Deny medication assistant endorsement to applicants who do not meet the requirements of RCW 18.88A.082. [2012 c 208 § 5; 2010 c 169 § 5; 1991 c 16 § 6; (1991 c 3 § 222 repealed by 1991 sp.s. c 11 § 2); 1989 c 300 § 7; 1988 c 267 § 6. Formerly RCW 18.52B.060.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

18.88A.060 Commission—Powers. In addition to any other authority provided by law, the commission may:

(1) Determine minimum nursing assistant education requirements and approve training programs;

(2) Approve education and training programs and examinations for medication assistants as provided in RCW 18.88A.082;

(3) Define the prescriber-ordered treatments a medication assistant is authorized to perform under RCW 18.88A.082;

(4) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, the competency evaluation for applicants for nursing assistant certification, using the same competency evaluation for all applicants, whether qualifying to take the competency evaluation under an approved training program or alternative training;

(5) Establish forms and procedures for evaluation of an applicant's alternative training under criteria adopted pursuant to RCW 18.88A.087;

(6) Define and approve any experience requirement for nursing assistant certification;

(7) Adopt rules implementing a continuing competency evaluation program for nursing assistants; and

(8) Adopt rules to enable it to carry into effect the provisions of this chapter. [2012 c 208 § 6; 2010 c 169 § 6; 1994

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sp.s. c 9 § 710; 1991 c 16 § 8; 1989 c 300 § 8; 1988 c 267 § 7. Formerly RCW 18.52B.070.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

Additional notes found at www.leg.wa.gov

18.88A.080 Registration requirements. (1) The secretary shall issue a registration to any applicant who pays any applicable fees and submits, on forms provided by the secretary, the applicant's name, address, and other information as determined by the secretary, provided there are no grounds for denial of registration or issuance of a conditional registration under this chapter or chapter 18.130 RCW.

(2) Applicants must file an application with the commission for registration within three days of employment. [1994 sp.s. c 9 § 711; 1991 c 16 § 10; (1991 c 3 § 224 repealed by 1991 sp.s. c 11 § 2); 1989 c 300 § 10; 1988 c 267 § 10. Formerly RCW 18.52B.100.]

Additional notes found at www.leg.wa.gov

18.88A.082 Medication assistant endorsement—Requirements. (1) Beginning July 1, 2013, the secretary shall issue a medication assistant endorsement to any nursing assistant-certified who meets the following requirements:

(a) Ongoing certification as a nursing assistant-certified in good standing under this chapter;

(b) Completion of a minimum number of hours of documented work experience as a nursing assistant-certified in a long-term care setting as defined in rule by the commission;

(c) Successful completion of an education and training program approved by the commission by rule, such as the model medication assistant-certified curriculum adopted by the national council of state boards of nursing. The education and training program must include training on the specific tasks listed in subsection (2) of this section as well as training on identifying tasks that a medication assistant may not perform under subsection (4) of this section;

(d) Passage of an examination approved by the commission by rule, such as the medication aide competency examination available through the national council of state boards of nursing; and

(e) Continuing competency requirements as defined in rule by the commission.

(2) Subject to subsection (3) of this section, a medication assistant may perform the following additional tasks:

(a) The administration of medications orally, topically, and through inhalation;

(b) The performance of simple prescriber-ordered treatments, including blood glucose monitoring, noncomplex clean dressing changes, pulse oximetry reading, and oxygen administration, to be defined by the commission by rule; and

(c) The documentation of the tasks in this subsection (2) on applicable medication or treatment forms.

(3) A medication assistant may only perform the additional tasks in subsection (2) of this section:

(a) In a nursing home;

(b) Under the direct supervision of a designated registered nurse who is on-site and immediately accessible during

the medication assistant's shift. The registered nurse shall assess the resident prior to the medication assistant administering medications or treatments and determine whether it is safe to administer the medications or treatments. The judgment and decision to administer medications or treatments is retained by the registered nurse; and

(c) If, while functioning as a medication assistant, the primary responsibility of the medication assistant is performing the additional tasks. The commission may adopt rules regarding the medication assistant's primary responsibilities and limiting the duties, within the scope of practice of a nursing assistant-certified, that a nursing assistant-certified may perform while functioning as a medication assistant.

(4) A medication assistant may not:

- (a) Accept telephone or verbal orders from a prescriber;
- (b) Calculate medication dosages;
- (c) Inject any medications;
- (d) Perform any sterile task;
- (e) Administer medications through a tube;
- (f) Administer any Schedule I, II, or III controlled substance; or

(g) Perform any task that requires nursing judgment.

(5) Nothing in this section requires a nursing home to employ a nursing assistant-certified with a medication assistant endorsement.

(6) A medication assistant is responsible and accountable for his or her specific functions.

(7) A medication assistant's employer may limit or restrict the range of functions permitted under this section, but may not expand those functions. [2012 c 208 § 3.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—2012 c 208: "(1) The legislature finds that many residents of skilled nursing facilities are vulnerable and their health and well-being are dependent on their caregivers. The quality, skills, and knowledge of their caregivers are often the key to good care and the need for well-trained caregivers with diverse skill sets is growing as the state's population ages and residents' needs increase.

(2) The legislature further finds that the evidence-based practice of allowing nursing assistants certified to administer certain medications and treatments promotes quality and safety for residents in skilled nursing facilities, and that creating opportunities for career advancement and pay improvement through additional training and credentialing will help enhance the working environment for nursing assistants certified in skilled nursing facilities.

(3) The legislature further finds that creating continued opportunities for recruitment into nursing practice and career advancement for nursing assistants certified will help ensure quality care for residents, and nurse training programs should recognize the relevant training and experience obtained by these credentialed professionals." [2012 c 208 § 1.]

Rules—2012 c 208: "The department of health and the Washington nursing care quality assurance commission shall adopt any rules necessary to implement chapter 208, Laws of 2012." [2012 c 208 § 11.]

18.88A.085 Certification of requirements. (1) After January 1, 1990, the secretary shall issue a nursing assistant certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Successful completion of an approved training program or successful completion of alternative training meeting established criteria adopted by the commission under RCW 18.88A.087; and

(b) Successful completion of the competency evaluation.

(2) In addition, applicants shall be subject to the grounds for denial of certification under chapter 18.130 RCW. [2010 c 169 § 7; 2007 c 361 § 9; 1994 sp.s. c 9 § 712; 1991 c 16 § 11.]

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

Construction—Severability—Captions not law—Short title—2007 c 361: See notes following RCW 74.39A.009.

Additional notes found at www.leg.wa.gov

18.88A.087 Certification—Alternative training—Credentialing reciprocity—Report. (1) The commission shall adopt criteria for evaluating an applicant's alternative training to determine the applicant's eligibility to take the competency evaluation for nursing assistant certification. At least one option adopted by the commission must allow an applicant to take the competency evaluation if he or she:

(a)(i) Is a certified home care aide pursuant to chapter 18.88B RCW; or

(ii) Is a certified medical assistant pursuant to a certification program accredited by a national medical assistant accreditation organization and approved by the commission; and

(b) Has successfully completed twenty-four hours of training that the commission determines is necessary to provide training equivalent to approved training on topics not addressed in the training specified for certification as a home care aide or medical assistant, as applicable. In the commission's discretion, a portion of these hours may include clinical training.

(2)(a) By July 1, 2011, the commission, in consultation with the secretary, the department of social and health services, and consumer, employer, and worker representatives, shall adopt rules to implement this section and to provide, beginning January 1, 2012, for a program of credentialing reciprocity to the extent required by this section between home care aide and medical assistant certification and nursing assistant certification. By July 1, 2011, the secretary shall also adopt such rules as may be necessary to implement this section and the credentialing reciprocity program.

(b) Rules adopted under this section must be consistent with requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act relating to state-approved competency evaluation programs for certified nurse aides.

(3) Beginning December 1, 2012, the secretary, in consultation with the commission, shall report annually by December 1st to the governor and the appropriate committees of the legislature on the progress made in achieving career advancement for certified home care aides and medical assistants into nursing practice. [2010 c 169 § 3.]

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

18.88A.088 Certification—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the commission determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 10.]

18.88A.090 Competency evaluations. (1) The commission shall examine each applicant, by a written or oral and a manual component of competency evaluation. The competency evaluation shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(2) Any applicant failing to make the required grade in the first competency evaluation may take up to three subsequent competency evaluations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent competency evaluation. Upon failing four competency evaluations, the secretary may invalidate the original application and require such remedial education before the person may take future competency evaluations.

The commission may approve a competency evaluation prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements. [2010 c 169 § 8; 1994 sp.s. c 9 § 713; 1991 c 3 § 225; 1989 c 300 § 11; 1988 c 267 § 13. Formerly RCW 18.52B.130.]

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

Additional notes found at www.leg.wa.gov

18.88A.100 Waiver of examination for initial applications. The secretary shall waive the competency evaluation and certify a person to practice within the state of Washington if the commission determines that the person meets commonly accepted standards of education and experience for the nursing assistants. This section applies only to those individuals who file an application for waiver by December 31, 1991. [1994 sp.s. c 9 § 714. Prior: 1991 c 16 § 12; 1991 c 3 § 226; 1989 c 300 § 12; 1988 c 267 § 15. Formerly RCW 18.52B.140.]

Additional notes found at www.leg.wa.gov

18.88A.110 Certificates for applicants credentialed in another state. An applicant holding a credential in another state may be certified by endorsement to practice in this state without the competency evaluation if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [2010 c 169 § 9; 1991 c 16 § 13.]

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

18.88A.120 Applications for registration and certification—Fee. Applications for registration, certification, and medication assistant endorsement shall be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for registration, certification, and medication assistant endorsement credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall comply with administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280. [2012 c 208 § 7; 1996 c 191 § 74; 1991 c 16 § 14.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

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Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

18.88A.130 Renewal of registration or certification. Registrations, certifications, and medication assistant endorsements shall be renewed according to administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280. [2012 c 208 § 8; 1996 c 191 § 75; 1994 sp.s. c 9 § 715; 1991 c 16 § 15.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Additional notes found at www.leg.wa.gov

18.88A.140 Exemptions. Nothing in this chapter may 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 their 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 secretary, 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;

(4) A nursing assistant, while employed as a personal aide as defined in RCW 74.39.007 or a long-term care worker as defined in chapter 74.39A RCW, from accepting direction from an individual who is self-directing his or her care. [2010 c 169 § 10; 2003 c 140 § 3; 2000 c 171 § 25; 1991 c 16 § 5.]

Conflict with federal requirements—2010 c 169: See note following RCW 18.88A.010.

Additional notes found at www.leg.wa.gov

18.88A.150 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs unregistered, uncertified, or unendorsed practice, issuance of certificates, registrations, and medication assistant endorsements, and the discipline of persons registered or with certificates under this chapter. The secretary shall be the disciplinary authority under this chapter. [2012 c 208 § 9; 1991 c 16 § 7.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

18.88A.200 Delegation of nursing care tasks—Legislative finding. The legislature recognizes that nurses have been successfully delegating nursing care tasks to family members and auxiliary staff for many years. The opportunity for a nurse to delegate to nursing assistants qualifying under RCW 18.88A.210 may enhance the viability and quality of health care services in community-based care settings and in-home care settings to allow individuals to live as independently as possible with maximum safeguards. [2003 c 140 § 4; 1995 1st sp.s. c 18 § 45.]

Additional notes found at www.leg.wa.gov

18.88A.210 Delegation—Basic and specialized nurse delegation training requirements. (1) A nursing assistant meeting the requirements of this section who provides care to individuals in community-based care settings or in-home care settings, as defined in RCW 18.79.260(3), may accept delegation of nursing care tasks by a registered nurse as provided in RCW 18.79.260(3).

(2) For the purposes of this section, "nursing assistant" means a nursing assistant-registered or a nursing assistant-certified. Nothing in this section may be construed to affect the authority of nurses to delegate nursing tasks to other persons, including licensed practical nurses, as authorized by law.

(3)(a) Before commencing any specific nursing care tasks authorized under this chapter, the nursing assistant must (i) provide to the delegating nurse a certificate of completion issued by the department of social and health services indicating the completion of basic core nurse delegation training, (ii) be regulated by the department of health pursuant to this chapter, subject to the uniform disciplinary act under chapter 18.130 RCW, and (iii) meet any additional training requirements identified by the nursing care quality assurance commission. Exceptions to these training requirements must adhere to RCW 18.79.260(3)(e) (vi).

(b) In addition to meeting the requirements of (a) of this subsection, before commencing the care of individuals with diabetes that involves administration of insulin by injection, the nursing assistant must provide to the delegating nurse a certificate of completion issued by the department of social and health services indicating completion of specialized diabetes nurse delegation training. The training must include, but is not limited to, instruction regarding diabetes, insulin, sliding scale insulin orders, and proper injection procedures. [2008 c 146 § 12; 2003 c 140 § 5; 2000 c 95 § 1; 1998 c 272 § 10; 1995 1st sp.s. c 18 § 46.]

Findings—Intent—Severability—2008 c 146: See notes following RCW 74.41.040.

Findings—Severability—Effective date—1998 c 272: See notes following RCW 18.20.230.

Additional notes found at www.leg.wa.gov

18.88A.230 Delegation—Liability—Reprisal or disciplinary action. (1) The nursing assistant shall be accountable for their own individual actions in the delegation process. Nursing assistants following written delegation instructions from registered nurses performed in the course of their accurately written, delegated duties shall be immune from liability.

(2) Nursing assistants shall not be subject to any employer reprisal or disciplinary action by the secretary for refusing to accept delegation of a nursing task based on patient safety issues. No community-based care setting as defined in RCW 18.79.260(3)(e), or in-home services agency as defined in RCW 70.127.010, may discriminate or retaliate in any manner against a person because the person made a complaint or cooperated in the investigation of a complaint. [2003 c 140 § 6; 2000 c 95 § 2; 1998 c 272 § 11; 1997 c 275 § 6; 1995 1st sp.s. c 18 § 48.]

Findings—Severability—Effective date—1998 c 272: See notes following RCW 18.20.230.

Additional notes found at www.leg.wa.gov

Chapter 18.88B RCW LONG-TERM CARE WORKERS

Sections

18.88B.010	Definitions.
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18.88B.031	Certification examinations.
18.88B.035	Provisional certification.
18.88B.041	Exemptions from training requirements.
18.88B.050	Disciplinary action—Uncertified practice.
18.88B.060	Authority of department.
18.88B.070	Nurse delegated tasks.
18.88B.080	Background checks—Disqualification.

18.88B.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community residential service business" has the same meaning as defined in RCW 74.39A.009.

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

(3) "Home care aide" means a person certified under this chapter.

(4) "Individual provider" has the same meaning as defined in RCW 74.39A.009.

(5) "Long-term care worker" has the same meaning as defined in RCW 74.39A.009.

(6) "Personal care services" has the same meaning as defined in RCW 74.39A.009.

(7) "Secretary" means the secretary of the department of health. [2012 c 164 § 201; 2009 c 2 § 17 (Initiative Measure No. 1029, approved November 4, 2008).]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Finding—Intent—2012 c 164: "The legislature finds that numerous enactments and amendments to long-term care services statutes over many years have resulted in duplicated provisions, ambiguities, and other technical errors. The legislature intends to make corrections and clarify provisions governing services by long-term care workers." [2012 c 164 § 101.]

Rules—2012 c 164: "By September 1, 2012, the department of social and health services shall adopt rules that reflect all statutory and regulatory training requirements for long-term care workers, as defined in RCW 74.39A.009, to provide the services identified in RCW 74.39A.009(5)(a)." [2012 c 164 § 408.]

Effective date—2012 c 164: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 29, 2012]." [2012 c 164 § 711.]

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

18.88B.021 Certification requirements. (1) Beginning January 7, 2012, except as provided in RCW 18.88B.041, any person hired as a long-term care worker must be certified as a home care aide as provided in this chapter within two hundred calendar days after the date of being hired. In computing the time periods in this subsection, the first day is the date of hire.

(2)(a) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified as provided in this chapter.

(b) This section does not prohibit a person: (i) From practicing a profession for which the person has been issued a license or which is specifically authorized under this state's laws; or (ii) who is exempt from certification under RCW 18.88B.041 from providing services as a long-term care worker.

(c) In consultation with consumer and worker representatives, the department shall, by January 1, 2013, establish by rule a single scope of practice that encompasses both long-term care workers who are certified home care aides and long-term care workers who are exempted from certification under RCW 18.88B.041.

(3) The department shall adopt rules to implement this section. [2013 c 259 § 1; 2012 c 164 § 301; 2012 c 1 § 103 (Initiative Measure No. 1163, approved November 8, 2011).]

Reviser's note: The language of this section, as enacted by 2012 c 1 § 103, was identical to RCW 18.88B.020 as amended by 2009 c 580 § 18, which was repealed by 2012 c 1 § 115.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Intent—Findings—Performance audits—Spending limits—Contingent effective dates—Application—Construction—Effective date—Short title—2012 c 1 (Initiative Measure No. 1163): See notes following RCW 74.39A.056.

18.88B.031 Certification examinations. (1) Except as provided in RCW 18.88B.041 and subject to the other requirements of this chapter, to be certified as a home care aide, a long-term care worker must successfully complete the training required under RCW 74.39A.074(1) and a certification examination. Any long-term care worker failing to make the required grade for the examination may not be certified as a home care aide.

(2) The department, in consultation with consumer and worker representatives, shall develop a home care aide certification examination to evaluate whether an applicant possesses the skills and knowledge necessary to practice competently. Except as provided by RCW 18.88B.041(1)(a)(ii), only those who have completed the training requirements in RCW 74.39A.074(1) shall be eligible to sit for this examination.

(3) The examination shall include both a skills demonstration and a written or oral knowledge test. The examination papers, all grading of the papers, and records related to the grading of skills demonstration shall be preserved for a period of not less than one year. The department shall establish rules governing the number of times and under what circumstances individuals who have failed the examination may sit for the examination, including whether any intermediate remedial steps should be required.

(4) All examinations shall be conducted by fair and wholly impartial methods. The certification examination shall be administered and evaluated by the department or by a contractor to the department that is neither an employer of long-term care workers or a private contractor providing training services under this chapter.

(5) The department shall adopt rules to implement this section. [2012 c 164 § 304; 2012 c 1 § 104 (Initiative Measure No. 1163, approved November 8, 2011).]

Reviser's note: The language of this section, as enacted by 2012 c 1 § 104, was identical to RCW 18.88B.030 as amended by 2009 c 580 § 4, which was repealed by 2012 c 1 § 115. This section has since been amended by 2012 c 164 § 304.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Intent—Findings—Performance audits—Spending limits—Contingent effective dates—Application—Construction—Effective date—Short title—2012 c 1 (Initiative Measure No. 1163): See notes following RCW 74.39A.056.

(2016 Ed.)

18.88B.035 Provisional certification. (1) The department may issue a provisional certification to a long-term care worker who is limited English proficient to allow the person additional time to comply with the requirement that a long-term care worker become certified as a home care aide within two hundred calendar days after the date of hire as provided in RCW 18.88B.021, if the long-term care worker:

(a) Is limited English proficient; and

(b) Complies with other requirements established by the department in rule.

(2) The department shall issue a provisional certification to a long-term care worker who has met the requirements of subsection (1) of this section. The provisional certification may only be issued once and is valid for no more than sixty days after the expiration of the two hundred calendar day requirement for becoming certified.

(3) The department shall adopt rules to implement this section.

(4) For the purposes of this section, "limited English proficient" means that an individual is limited in his or her ability to read, write, or speak English. [2015 c 152 § 4; 2013 c 259 § 2.]

18.88B.041 Exemptions from training requirements.

(1) The following long-term care workers are not required to become a certified home care aide pursuant to this chapter:

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long-term care worker prior to January 7, 2012, and who completes all of his or her training requirements in effect as of the date he or she was hired.

(ii) Individuals exempted by (a)(i) of this subsection may obtain certification as a home care aide without fulfilling the training requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete a certification examination pursuant to RCW 18.88B.031.

(b) All long-term care workers employed by community residential service businesses.

(c) An individual provider caring only for his or her biological, step, or adoptive child or parent.

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

(3) The department shall adopt rules to implement this section. [2015 c 152 § 1; 2014 c 139 § 6; 2012 c 164 § 302;

2012 c 1 § 105 (Initiative Measure No. 1163, approved November 8, 2011).]

Reviser's note: The language of this section, as enacted by 2012 c 1 § 105, was identical to RCW 18.88B.040 as amended by 2009 c 580 § 15, which was repealed by 2012 c 1 § 115.

Finding—Intent—Program development—Implementation—Program funding—2014 c 139: See notes following RCW 71A.16.050.

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Intent—Findings—Performance audits—Spending limits—Continuing effective dates—Application—Construction—Effective date—Short title—2012 c 1 (Initiative Measure No. 1163): See notes following RCW 74.39A.056.

18.88B.050 Disciplinary action—Uncertified practice. (1) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, issuance and renewal of certificates, and the discipline of persons with certificates under this chapter. The secretary shall be the disciplinary authority under this chapter.

(2) The secretary may take action to immediately suspend the certification of a home care aide upon finding that conduct of the home care aide has caused or presents an imminent threat of harm to a functionally disabled person in his or her care.

(3) If the secretary imposes suspension or conditions for continuation or renewal of certification, the suspension or conditions for continuation or renewal are effective immediately upon notice and shall continue in effect pending the outcome of any hearing.

(4) The department shall take appropriate enforcement action related to the licensure of a private agency or facility licensed by the state, to provide personal care services, other than an individual provider, who knowingly employs a long-term care worker who is not a certified home care aide as required under this chapter or whose certification is revoked or, if exempted from certification by RCW 18.88B.041, who has not completed his or her required training pursuant to RCW 74.39A.074.

(5) Chapter 34.05 RCW shall govern actions by the department under this section.

(6) The department shall adopt rules to implement this section. [2012 c 164 § 601; 2011 1st sp.s. c 31 § 4; 2009 c 580 § 17; 2009 c 2 § 13 (Initiative Measure No. 1029, approved November 4, 2008).]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Effective date—2011 1st sp.s. c 31: "Except for sections 6, 10, and 14 through 17 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 15, 2011]." [2011 1st sp.s. c 31 § 18.]

Intent—Findings—2009 c 2 (Initiative Measure No. 1029): "It is the intent of the people through this initiative to protect the safety of and improve the quality of care to the vulnerable elderly and persons with disabilities.

The people find and declare that current procedures to train and educate long-term care workers and to protect the elderly or persons with disabilities from caregivers with a criminal background are insufficient. The people find and declare that long-term care workers for the elderly or persons with disabilities should have a federal criminal background check and a formal system of education and experiential qualifications leading to a certification test.

The people find that the quality of long-term care services for the elderly and persons with disabilities is dependent upon the competency of the work-

ers who provide those services. To assure and enhance the quality of long-term care services for the elderly and persons with disabilities, the people recognize the need for federal criminal background checks and increased training requirements. Their establishment should protect the vulnerable elderly and persons with disabilities, bring about a more stabilized workforce, improve the quality of long-term care services, and provide a valuable resource for recruitment into long-term care services for the elderly and persons with disabilities." [2009 c 2 § 1 (Initiative Measure No. 1029, approved November 4, 2008).]

Construction—2009 c 2 (Initiative Measure No. 1029): "The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act." [2009 c 2 § 19 (Initiative Measure No. 1029, approved November 4, 2008).]

Short title—2009 c 2 (Initiative Measure No. 1029): "This act may be known and cited as the better background checks and improved training for long-term care workers for the elderly and persons with disabilities initiative of 2008." [2009 c 2 § 21 (Initiative Measure No. 1029, approved November 4, 2008).]

18.88B.060 Authority of department. (1) The department has the authority to:

- (a) Establish forms, procedures, and examinations necessary to certify home care aides pursuant to this chapter;
- (b) Hire clerical, administrative, and investigative staff as needed to implement this section;
- (c) Issue certification as a home care aide to any applicant who has successfully completed the home care aide examination, and renew such certificates;
- (d) Maintain the official record of all applicants and persons with certificates;
- (e) Exercise disciplinary authority as authorized in chapter 18.130 RCW; and
- (f) Deny certification to applicants who do not meet training, competency examination, and conduct requirements, including background checks, for certification.

(2) The department shall adopt rules that establish the procedures, including criteria for reviewing an applicant's state and federal background checks, and examinations necessary to implement this section. [2012 c 164 § 303.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

18.88B.070 Nurse delegated tasks. (1) The legislature recognizes that nurses have been successfully delegating nursing care tasks to family members and others for many years. The opportunity for a nurse to delegate nursing care tasks to home care aides certified under this chapter may enhance the viability and quality of health care services in community-based care settings and in-home care settings to allow individuals to live as independently as possible with maximum safeguards.

(2)(a) A certified home care aide who wishes to perform a nurse delegated task pursuant to RCW 18.79.260 must complete nurse delegation core training under chapter 18.88A RCW before the home care aide may be delegated a nursing care task by a registered nurse delegator. Before administering insulin, a home care aide must also complete the specialized diabetes nurse delegation training under chapter 18.88A RCW. Before commencing any specific nursing care tasks authorized under RCW 18.79.260, the home care aide must:

- (i) Provide to the delegating nurse a transcript or certificate of successful completion of training issued by an

approved instructor or approved training entity indicating the completion of basic core nurse delegation training; and

(ii) Meet any additional training requirements mandated by the nursing care quality assurance commission. Any exception to these training requirements is subject to RCW 18.79.260(3)(e)(vi).

(b) In addition to meeting the requirements of (a) of this subsection, before providing delegated nursing care tasks that involve administration of insulin by injection to individuals with diabetes, the home care aide must provide to the delegating nurse a transcript or certificate of successful completion of training issued by an approved instructor or approved training entity indicating completion of specialized diabetes nurse delegation training. The training must include, but is not limited to, instruction regarding diabetes, insulin, sliding scale insulin orders, and proper injection procedures.

(3) The home care aide is accountable for his or her own individual actions in the delegation process. Home care aides accurately following written delegation instructions from a registered nurse are immune from liability regarding the performance of the delegated duties.

(4) Home care aides are not subject to any employer reprisal or disciplinary action by the secretary for refusing to accept delegation of a nursing care task based on his or her concerns about patient safety issues. No provider of a community-based care setting as defined in RCW 18.79.260, or in-home services agency as defined in RCW 70.127.010, may discriminate or retaliate in any manner against a person because the person made a complaint about the nurse delegation process or cooperated in the investigation of the complaint. [2012 c 164 § 406.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

18.88B.080 Background checks—Disqualification. A long-term care worker disqualified from working with vulnerable persons under chapter 74.39A RCW may not be certified or maintain certification as a home care aide under this chapter. To allow the department to satisfy its certification responsibilities under this chapter, the department of social and health services shall share the results of state and federal background checks conducted pursuant to RCW 74.39A.056 with the department. Neither department may share the federal background check results with any other state agency or person. [2012 c 164 § 501.]

Finding—Intent—Rules—Effective date—2012 c 164: See notes following RCW 18.88B.010.

Chapter 18.89 RCW

RESPIRATORY CARE PRACTITIONERS

Sections

18.89.010	Legislative findings—Insurance coverage not mandated.
18.89.015	Unlawful practice, when.
18.89.020	Definitions.
18.89.030	Respiratory care practitioner—What constitutes.
18.89.040	Scope of practice.
18.89.050	Powers of secretary—Ad hoc advisers—Application of Uniform Disciplinary Act.
18.89.060	Record of proceedings.
18.89.080	Secretary and ad hoc committee immune from liability.
18.89.090	Licensure—Qualifications.
18.89.095	Licensure—Qualifications—Military training or experience.
18.89.100	Certification—Competency requirements.

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18.89.110	Licensure—Examination.
18.89.120	Licensure—Application form—Fee.
18.89.140	Renewal of licenses—Continuing education.
18.89.150	Reciprocity.

Regulation of health professions—Criteria: Chapter 18.120 RCW.

18.89.010 Legislative findings—Insurance coverage not mandated. The legislature finds that in order to safeguard life, health, and to promote public welfare, a person practicing or offering to practice respiratory care as a respiratory care practitioner in this state shall be required to submit evidence that he or she is qualified to practice, and shall be licensed as provided. The settings for these services may include, health facilities licensed in this state, clinics, home care, home health agencies, physicians' offices, and public or community health services. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter. [1997 c 334 § 1; 1987 c 415 § 1.]

Additional notes found at www.leg.wa.gov

18.89.015 Unlawful practice, when. After July 1, 1998, it shall be unlawful for a person to practice or to offer to practice as a respiratory care practitioner in this state or to use a title, sign, or device to indicate that such a person is practicing as a respiratory care practitioner unless the person has been duly licensed and registered under the provisions of this chapter. [1997 c 334 § 2.]

Additional notes found at www.leg.wa.gov

18.89.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health.

(2) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, or an osteopathic physician assistant licensed under chapter 18.57A RCW.

(3) "Respiratory care practitioner" means an individual licensed under this chapter.

(4) "Secretary" means the secretary of health or the secretary's designee. [2011 c 235 § 1; 1997 c 334 § 3; 1994 sp.s. c 9 § 511; 1991 c 3 § 227; 1987 c 415 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

18.89.030 Respiratory care practitioner—What constitutes. A respiratory care practitioner is a person who adopts or uses any title or any description of services which incorporates one or more of the following terms or designations: (1) RT, (2) RCP, (3) respiratory care practitioner, (4) respiratory therapist, (5) respiratory technician, (6) inhalation

therapist, or (7) any other words, abbreviation, or insignia indicating that he or she is a respiratory care practitioner. [1987 c 415 § 4.]

18.89.040 Scope of practice. (1) A respiratory care practitioner licensed under this chapter is employed in the treatment, management, diagnostic testing, rehabilitation, and care of patients with deficiencies and abnormalities which affect the cardiopulmonary system and associated aspects of other systems, and is under the direct order and under the qualified medical direction of a health care practitioner. The practice of respiratory care includes:

- (a) The use and administration of prescribed medical gases, exclusive of general anesthesia;
- (b) The use of air and oxygen administering apparatus;
- (c) The use of humidification and aerosols;
- (d) The administration, to the extent of training, as determined by the secretary, of prescribed pharmacologic agents related to respiratory care;
- (e) The use of mechanical ventilatory, hyperbaric, and physiological support;
- (f) Postural drainage, chest percussion, and vibration;
- (g) Bronchopulmonary hygiene;
- (h) Cardiopulmonary resuscitation as it pertains to advanced cardiac life support or pediatric advanced life support guidelines;
- (i) The maintenance of natural and artificial airways and insertion, without cutting tissues, of artificial airways, as prescribed by a health care practitioner;
- (j) Diagnostic and monitoring techniques such as the collection and measurement of cardiorespiratory specimens, volumes, pressures, and flows;
- (k) The insertion of devices to draw, analyze, infuse, or monitor pressure in arterial, capillary, or venous blood as prescribed by a health care practitioner; and
- (l) Diagnostic monitoring of and therapeutic interventions for desaturation, ventilatory patterns, and related sleep abnormalities to aid the health care practitioner in diagnosis. This subsection does not prohibit any person from performing sleep monitoring tasks as set forth in this subsection under the supervision or direction of a licensed health care provider.

(2) Nothing in this chapter prohibits or restricts:

- (a) The practice of a profession by individuals who are licensed under other laws of this state who are performing services within their authorized scope of practice, that may overlap the services provided by respiratory care practitioners;
- (b) The practice of respiratory care by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed for him or her by the laws and rules of the United States;
- (c) The practice of respiratory care by a person pursuing a supervised course of study leading to a degree or certificate in respiratory care as a part of an accredited and approved educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee and limited to the extent of demonstrated proficiency of completed curriculum, and under direct supervision;
- (d) The use of the title "respiratory care practitioner" by registered nurses authorized under chapter 18.79 RCW; or

(e) The practice without compensation of respiratory care of a family member.

Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person licensed under this chapter. [2011 c 235 § 2; 1999 c 84 § 1; 1997 c 334 § 4; 1994 sp.s. c 9 § 716; 1987 c 415 § 5.]

Additional notes found at www.leg.wa.gov

18.89.050 Powers of secretary—Ad hoc advisers—Application of Uniform Disciplinary Act. (1) In addition to any other authority provided by law, the secretary may:

- (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;
- (b) Set all license, examination, and renewal fees in accordance with RCW 43.70.250;
- (c) Establish forms and procedures necessary to administer this chapter;
- (d) Issue a license to any applicant who has met the education, training, and examination requirements for licensure;
- (e) Hire clerical, administrative, and investigative staff as needed to implement this chapter and hire individuals licensed under this chapter to serve as examiners for any practical examinations;
- (f) Approve those schools from which graduation will be accepted as proof of an applicant's eligibility to take the licensure examination, specifically requiring that applicants must have completed an accredited respiratory program with two-year curriculum;
- (g) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for licensure;
- (h) 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 the examination;
- (i) Determine which states have legal credentialing requirements equivalent to those of this state and issue licenses to individuals legally credentialed in those states without examination;
- (j) Define and approve any experience requirement for licensure; and
- (k) Appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

(2) The provisions of chapter 18.130 RCW shall govern the issuance and denial of licenses, unlicensed practice, and the disciplining of persons licensed under this chapter. The secretary shall be the disciplining authority under this chapter. [2004 c 262 § 13; 1997 c 334 § 5; 1994 sp.s. c 9 § 512; 1991 c 3 § 228; 1987 c 415 § 6.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

18.89.060 Record of proceedings. The secretary shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for licensure under this chapter, with the result of each application. [1997 c 334 § 6; 1991 c 3 § 229; 1987 c 415 § 7.]

Additional notes found at www.leg.wa.gov

18.89.080 Secretary and ad hoc committee immune from liability. The secretary, ad hoc committee members, or individuals acting on their behalf are immune from suit in any civil action based on any licensure or disciplinary proceedings, or other official acts performed in the course of their duties. [1997 c 334 § 7; 1994 sp.s. c 9 § 513; 1991 c 3 § 231; 1987 c 415 § 9.]

Additional notes found at www.leg.wa.gov

18.89.090 Licensure—Qualifications. (1) The secretary shall issue a license to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

- (a) Graduation from a school approved by the secretary or successful completion of alternate training which meets the criteria established by the secretary;
- (b) Successful completion of an examination administered or approved by the secretary;
- (c) Successful completion of any experience requirement established by the secretary;
- (d) Good moral character.

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

(2) A person who meets the qualifications to be admitted to the examination for licensure as a respiratory care practitioner may practice as a respiratory care practitioner under the supervision of a respiratory care practitioner licensed under this chapter between the date of filing an application for licensure and the announcement of the results of the next succeeding examination for licensure if that person applies for and takes the first examination for which he or she is eligible.

(3) A person certified as a respiratory care practitioner in good standing on July 1, 1998, who applies within one year of July 1, 1998, may be licensed without having completed the two-year curriculum set forth in RCW 18.89.050(1)(f), and without having to retake an examination under subsection (1)(b) of this section.

(4) The secretary shall establish by rule what constitutes adequate proof of meeting the criteria. [1997 c 334 § 8; 1991 c 3 § 232; 1987 c 415 § 10.]

Additional notes found at www.leg.wa.gov

18.89.095 Licensure—Qualifications—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 11.]

18.89.100 Certification—Competency requirements. The secretary shall approve only those persons who have achieved the minimum level of competency as defined by the

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secretary. The secretary shall establish by rule the standards and procedures for approval of alternate training and shall have the authority to contract with individuals or organizations having expertise in the profession, or in education, to assist in evaluating those applying for approval. The standards and procedures set shall apply equally to schools and training within the United States and those in foreign jurisdictions. [1991 c 3 § 233; 1987 c 415 § 11.]

18.89.110 Licensure—Examination. (1) The date and location of the examination shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for licensure shall be scheduled for the next examination following the filing of the application. However, the applicant shall not be scheduled for any examination taking place sooner than sixty days after the application is filed.

(2) The secretary shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently, and shall meet generally accepted standards of fairness and validity for licensure examinations.

(3) All examinations shall be conducted by the secretary, and all grading of the examinations shall be under fair and wholly impartial methods.

(4) Any applicant who fails to make the required grade in the first examination is entitled to take up to three subsequent examinations, upon compliance with administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280 and such remedial education as is deemed necessary.

(5) Applicants who meet the educational criteria as established by the national board for respiratory care to sit for the national board for respiratory care's advanced practitioner exams, or who have been issued the registered respiratory therapist credential by the national board for respiratory care, shall be considered to have met the educational criteria of this chapter, provided the criteria and credential continue to be recognized by the secretary as equal to or greater than the licensure standards in Washington. Applicants must have verification submitted directly from the national board for respiratory care to the department.

(6) The secretary may approve an examination prepared and administered by a private testing agency or association of credentialing boards for use by an applicant in meeting the licensure requirement. [2004 c 262 § 14; 1997 c 334 § 9; 1996 c 191 § 76; 1991 c 3 § 234; 1987 c 415 § 12.]

Findings—2004 c 262: See note following RCW 18.06.050.

Additional notes found at www.leg.wa.gov

18.89.120 Licensure—Application form—Fee. Applications for licensure shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for licensure provided in this chapter and chapter 18.130 RCW. All applicants shall comply with administrative procedures, administrative requirements, and fees determined by the sec-

retary under RCW 43.70.250 and 43.70.280. [1997 c 334 § 10; 1996 c 191 § 77; 1991 c 3 § 235; 1987 c 415 § 13.]

Additional notes found at www.leg.wa.gov

18.89.140 Renewal of licenses—Continuing education. Licenses shall be renewed according to administrative procedures, administrative requirements, continuing education requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280. A minimum of thirty hours of continuing education approved by the secretary must be completed every two years to meet the continuing education requirements under this section. [2000 c 93 § 43; 1997 c 334 § 11; 1996 c 191 § 78; 1991 c 3 § 237; 1987 c 415 § 15.]

Additional notes found at www.leg.wa.gov

18.89.150 Reciprocity. An applicant holding a license in another state may be licensed to practice in this state without examination if the secretary determines that the other state's licensing standards are substantially equivalent to the standards in this state. [1997 c 334 § 12.]

Additional notes found at www.leg.wa.gov

Chapter 18.92 RCW VETERINARY MEDICINE, SURGERY, AND DENTISTRY

Sections

18.92.010	Veterinary practice defined.
18.92.012	Authority to dispense legend drugs prescribed by other veterinarians.
18.92.013	Dispensing of drugs by registered or licensed personnel.
18.92.015	Definitions.
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18.92.240	Violations generally—Penalty.
18.92.250	Intent—Veterinary services—Low-income households.
18.92.260	Animal care societies/nonprofit humane societies—Low-income households—License required—Rule-making authority—Uniform disciplinary act—Registration—Fees.

Duty of veterinarians to report diseases: RCW 16.36.080.

18.92.010 Veterinary practice defined. Any person shall be regarded as practicing veterinary medicine, surgery and dentistry within the meaning of this chapter who shall, within this state, (1) by advertisement, or by any notice, sign, or other indication, or by a statement written, printed or oral, in public or private, made, done, or procured by himself or herself, or any other, at his or her request, for him or her, rep-

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resent, claim, announce, make known or pretend his or her ability or willingness to diagnose or prognose or treat diseases, deformities, defects, wounds, or injuries of animals; (2) or who shall so advertise, make known, represent or claim his or her ability and willingness to prescribe or administer any drug, medicine, treatment, method or practice, or to perform any operation, manipulation, or apply any apparatus or appliance for cure, amelioration, correction or reduction or modification of any animal disease, deformity, defect, wound or injury, for hire, fee, compensation, or reward, promised, offered, expected, received, or accepted directly or indirectly; (3) or who shall within this state diagnose or prognose any animal diseases, deformities, defects, wounds or injuries, for hire, fee, reward, or compensation promised, offered, expected, received, or accepted directly or indirectly; (4) or who shall within this state prescribe or administer any drug, medicine, treatment, method or practice, or perform any operation, or manipulation, or apply any apparatus or appliance for the cure, amelioration, alleviation, correction, or modification of any animal disease, deformity, defect, wound, or injury, for hire, fee, compensation, or reward, promised, offered, expected, received or accepted directly or indirectly; (5) or who performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock; (6) or who implants any electronic device for the purpose of establishing or maintaining positive identification of animals.

The opening of an office or place of business for the practice of veterinary medicine, the use of a sign, card, device or advertisement as a practitioner of veterinary medicine or as a person skilled in such practice shall be prima facie evidence of engaging in the practice of veterinary medicine, surgery and dentistry. [1995 c 317 § 1; 1959 c 92 § 1; 1941 c 71 § 1; Rem. Supp. 1941 § 10040-1. Prior: 1907 c 124 § 1. FORMER PART OF SECTION: 1941 c 71 § 21; Rem. Supp. 1941 § 10040-21, now codified as RCW 18.92.015.]

18.92.012 Authority to dispense legend drugs prescribed by other veterinarians. A veterinarian licensed under this chapter may dispense veterinary legend drugs prescribed by other veterinarians licensed under this chapter, so long as, during any year, the total drugs so dispensed do not constitute more than five percent of the total dosage units of legend drugs the veterinarian dispenses and the veterinarian maintains records of his or her dispensing activities consistent with the requirements of chapters 18.64, 69.04, 69.41, and 69.50 RCW. For purposes of this section, a "veterinary legend drug" is a legend drug, as defined in chapter 69.41 RCW, which is either: (1) Restricted to use by licensed veterinarians by any law or regulation of the federal government, or (2) designated by rule by the pharmacy quality assurance commission as being a legend drug that one licensed veterinarian may dispense for another licensed veterinarian under this section. [2013 c 19 § 41; 1991 c 47 § 1.]

18.92.013 Dispensing of drugs by registered or licensed personnel. (1) A veterinarian legally prescribing drugs may delegate to a registered veterinary medication clerk, while under the veterinarian's direct supervision, certain nondiscretionary functions defined by the board and used in the preparing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW)

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associated with the practice of veterinary medicine. A veterinarian legally prescribing drugs may delegate to a licensed veterinary technician, while under the veterinarian's indirect supervision, certain nondiscretionary functions defined by the board and used in the preparing of legend drugs, nonlegend drugs, and controlled substances associated with the practice of veterinary medicine. Upon final approval of the packaged prescription following a direct physical inspection of the packaged prescription for proper formulation, packaging, and labeling by the veterinarian, the veterinarian may delegate the delivery of the prescription to a registered veterinary medication clerk or licensed veterinary technician, while under the veterinarian's indirect supervision. Dispensing of drugs by veterinarians, licensed veterinary technicians, and registered veterinary medication clerks shall meet the applicable requirements of chapters 18.64, 69.40, 69.41, and 69.50 RCW and is subject to inspection by the pharmacy quality assurance commission investigators.

(2) A licensed veterinary technician may administer legend drugs under chapter 69.41 RCW and controlled substances under chapter 69.50 RCW under indirect supervision of a veterinarian.

(3) For the purposes of this section:

(a) "Direct supervision" means the veterinarian is on the premises and is quickly and easily available; and

(b) "Indirect supervision" means the veterinarian is not on the premises but has given written or oral instructions for the delegated task. [2013 c 19 § 42; 2009 c 136 § 1; 2007 c 235 § 5; 2000 c 93 § 8; 1993 c 78 § 2.]

18.92.015 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the Washington state veterinary board of governors.

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

(3) "Secretary" means the secretary of the department of health.

(4) "Veterinary medication clerk" means a person who has satisfactorily completed a board-approved training program developed in consultation with the pharmacy quality assurance commission and designed to prepare persons to perform certain nondiscretionary functions defined by the board and used in the dispensing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW) associated with the practice of veterinary medicine.

(5) "Veterinary technician" means a person who is licensed by the board upon meeting the requirements of RCW 18.92.128. [2013 c 19 § 43; 2007 c 235 § 1; 2000 c 93 § 9; 1993 c 78 § 1; 1991 c 332 § 40; 1991 c 3 § 238; 1983 c 102 § 1; 1979 c 158 § 71; 1974 ex.s. c 44 § 1; 1967 ex.s. c 50 § 1; 1959 c 92 § 2; 1941 c 71 § 21; Rem. Supp. 1941 § 10040-21. Formerly RCW 18.92.010, part.]

Additional notes found at www.leg.wa.gov

18.92.021 Veterinary board of governors—Appointment, qualifications, terms, officers—Quorum. (1) There is created a Washington state veterinary board of governors consisting of seven members, five of whom shall be licensed veterinarians, one of whom shall be a licensed veterinary

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technician trained in both large and small animal medicine, and one of whom shall be a lay member.

(2)(a) The licensed members shall be appointed by the governor. At the time of their appointment the licensed members of the board must be actual residents of the state in active practice as licensed practitioners of veterinary medicine, surgery, and dentistry, or employed as a licensed veterinary technician, as applicable, and must be citizens of the United States. Not more than one licensed veterinary member shall be from the same congressional district. The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

(b) The terms of the first licensed members of the board shall be as follows: One member for five, four, three, two, and one years respectively. Thereafter the terms shall be for five years and until their successors are appointed and qualified.

(c) The lay member shall be appointed by the governor for a five year term and until the lay member's successor is appointed.

(d) A member may be appointed to serve a second term, if that term does not run consecutively.

(e) Vacancies in the board shall be filled by the governor, the appointee to hold office for the remainder of the unexpired term.

(3) The licensed veterinary technician member is a non-voting member with respect to board decisions related to the discipline of a veterinarian involving standard of care.

(4) Officers of the board shall be a chair and a secretary-treasurer to be chosen by the members of the board from among its members.

(5) Four members of the board shall constitute a quorum at meetings of the board. [2007 c 235 § 3; 1983 c 2 § 2. Prior: 1982 1st ex.s. c 30 § 5; 1982 c 134 § 1; 1979 ex.s. c 31 § 1; 1967 ex.s. c 50 § 2; 1959 c 92 § 3.]

Additional notes found at www.leg.wa.gov

18.92.030 General duties of board. (1) The board shall develop and administer, or approve, or both, a licensure examination in the subjects determined by the board to be essential to the practice of veterinary medicine, surgery, and dentistry. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The board, under chapter 34.05 RCW, may adopt rules necessary to carry out the purposes of this chapter, including:

(a) Standards for the performance of the duties and responsibilities of veterinary technicians and veterinary medication clerks and fixing minimum standards of continuing education for veterinary technicians. The rules shall be adopted in the interest of good veterinary health care delivery to the consuming public and shall not prevent veterinary technicians from inoculating an animal; and

(b) Standards prescribing requirements for veterinary medical facilities and fixing minimum standards of continuing veterinary medical education.

(3) The department is the board's official office of record. [2007 c 235 § 4; 2000 c 93 § 10; 1995 c 198 § 13; 1993 c 78 § 3; 1986 c 259 § 140; 1983 c 102 § 2; 1982 c 134 § 2; 1981 c 67 § 23; 1974 ex.s. c 44 § 2; 1967 ex.s. c 50 § 3; 1961 c 157 § 2; 1959 c 92 § 4; 1941 c 71 § 4; Rem. Supp. 1941 § 10040-4. FORMER PART OF SECTION: 1941 c 71 § 9; Rem. Supp. 1941 § 10040-9 now codified as RCW 18.92.035.]

Additional notes found at www.leg.wa.gov

18.92.035 Board to certify successful examinees. The board shall certify to the secretary the names of all applicants who have successfully passed an examination and are entitled to a license to practice veterinary medicine, surgery and dentistry. The secretary shall thereupon issue a license to practice veterinary medicine, surgery and dentistry to such applicant. [1991 c 3 § 239; 1941 c 71 § 9; Rem. Supp. 1941 § 10040-9. Formerly RCW 18.92.030, part.]

18.92.040 Compensation and travel expenses of board members. Each member of the board shall be compensated in accordance with RCW 43.70.250 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. No expense may be incurred by members of the board except in connection with board meetings without prior approval of the secretary. [1991 c 3 § 240; 1984 c 287 § 51; 1983 c 102 § 4; 1975-'76 2nd ex.s. c 34 § 53; 1974 ex.s. c 44 § 3; 1967 ex.s. c 50 § 4; 1959 c 92 § 5; 1941 c 71 § 5; 1913 c 79 § 2; 1907 c 124 § 13; Rem. Supp. 1941 § 10040-5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.92.046 Application of uniform disciplinary act. 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. [1987 c 150 § 58; 1986 c 259 § 139.]

Additional notes found at www.leg.wa.gov

18.92.047 Impaired veterinarian program—Content—License surcharge. (1) To implement an impaired veterinarian program as authorized by RCW 18.130.175, the veterinary board of governors shall enter into a contract with a voluntary substance abuse monitoring program. The impaired veterinarian program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired veterinarians to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired veterinarians including those ordered by the board;
- (f) Providing education, prevention of impairment, post-treatment monitoring, and support of rehabilitated impaired veterinarians; and
- (g) Performing other related activities as determined by the board.

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(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of twenty-five dollars on each license issuance or renewal of a new license to be collected by the department of health from every veterinarian licensed under chapter 18.92 RCW. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired veterinarian program. [2016 c 42 § 3; 1991 c 3 § 241; 1989 c 125 § 2.]

18.92.051 Compliance with chapter required. 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. [1987 c 150 § 59.]

Additional notes found at www.leg.wa.gov

18.92.060 Licensing exemptions. Nothing in this chapter applies to:

(1) Commissioned veterinarians in the United States military services or veterinarians employed by Washington state and federal agencies while performing official duties;

(2) A person practicing veterinary medicine upon his or her own animal;

(3) A person advising with respect to or performing the castrating and dehorning of cattle, castrating and docking of sheep, castrating of swine, caponizing of poultry, or artificial insemination of animals;

(4)(a) A person who is a regularly enrolled student in a veterinary school or training course approved under RCW 18.92.015 and performing duties or actions assigned by his or her instructors or working under the direct supervision of a licensed veterinarian during a school vacation period or (b) a person performing assigned duties under the supervision of a veterinarian within the established framework of an internship program recognized by the board;

(5) A veterinarian regularly licensed in another state consulting with a licensed veterinarian in this state;

(6) A veterinary technician or veterinary medication clerk acting under the supervision and control of a licensed veterinarian. The practice of a veterinary technician or veterinary medication clerk is limited to the performance of services which are authorized by the board;

(7) An owner being assisted in practice by his or her employees when employed in the conduct of the owner's business;

(8) An owner being assisted in practice by some other person gratuitously;

(9) The implanting in their own animals of any electronic device for identifying animals by established humane societies and animal control organizations that provide appropriate training, as determined by the veterinary board of governors, and/or direct or indirect supervision by a licensed veterinarian;

(10) The implanting of any electronic device by a public fish and wildlife agency for the identification of fish or wildlife. [2000 c 93 § 11; 1995 c 317 § 2; 1993 c 78 § 4; 1974 ex.s. c 44 § 4; 1967 ex.s. c 50 § 5; 1959 c 92 § 13; 1941 c 71 § 20; Rem. Supp. 1941 § 10040-20. Prior: 1907 c 124 § 15.]

18.92.070 Applications—Procedure—Qualifications—Eligibility to take examination. No person, unless

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registered or licensed to practice veterinary medicine, surgery, and dentistry in this state at the time this chapter shall become operative, shall begin the practice of veterinary medicine, surgery and dentistry without first applying for and obtaining a license for such purpose from the secretary. In order to procure a license to practice veterinary medicine, surgery, and dentistry in the state of Washington, the applicant for such license shall file his or her application at least sixty days prior to date of examination upon a form furnished by the secretary of health, which, in addition to the fee provided by this chapter, shall be accompanied by satisfactory evidence that he or she is at least eighteen years of age and of good moral character, and by official transcripts or other evidence of graduation from a veterinary college satisfactory to and approved by the board. Said application shall be signed by the applicant and sworn to by him or her before some person authorized to administer oaths. When such application and the accompanying evidence are found satisfactory, the secretary shall notify the applicant to appear before the board for the next examination. In addition, applicants shall be subject to grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program as determined by the board, in a veterinary college recognized by the board, to take the examination or any part thereof prior to satisfying the requirements for application for a license: PROVIDED HOWEVER, That no license shall be issued to such applicant until such requirements are satisfied. [1991 c 3 § 242; 1986 c 259 § 141; 1982 c 134 § 3; 1979 c 158 § 72; 1974 ex.s. c 44 § 5; 1971 ex.s. c 292 § 28; 1941 c 71 § 6; Rem. Supp. 1941 § 10040-6. Formerly RCW 18.92.050, part, 18.92.070, part, and 18.92.080, part.]

Additional notes found at www.leg.wa.gov

18.92.100 Examinations—Time of—Subjects—Manner. Examinations for license to practice veterinary medicine, surgery and dentistry shall be held at least once each year at such times and places as the secretary may authorize and direct. The examination shall be on subjects that are ordinarily included in the curricula of veterinary colleges. All examinees shall be tested by written examination, supplemented by such oral interviews and practical demonstrations as the board deems necessary. [1995 c 198 § 14; 1991 c 3 § 243; 1967 ex.s. c 50 § 6; 1959 c 92 § 7; 1941 c 71 § 7; Rem. Supp. 1941 § 10040-7.]

18.92.115 Reexamination—Fee. Any applicant who shall fail to secure the required grade in his or her first examination may take the next regular veterinary examination. The fee for reexamination shall be determined by the secretary as provided in RCW 43.70.250. [2011 c 336 § 499; 1991 c 3 § 244; 1985 c 7 § 71; 1975 1st ex.s. c 30 § 82; 1967 ex.s. c 50 § 7; 1959 c 92 § 8; 1941 c 71 § 10; Rem. Supp. 1941 § 10040-10. Prior: 1907 c 124 § 17. Formerly RCW 18.92.090, part.]

18.92.120 License—Temporary certificates, restrictions. Any person who shall make application for examination, as provided by RCW 18.92.070, and who has not previ-

ously failed to pass the veterinary examination, and whose application is found satisfactory by the secretary, may be given a temporary certificate to practice veterinary medicine, surgery and dentistry valid only until the results of the next examination for licenses are available. In addition, applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW. No more than one temporary certificate may be issued to any applicant. Such permittee shall be employed by a licensed veterinary practitioner or by the state of Washington. [1991 c 3 § 245; 1986 c 259 § 142; 1967 ex.s. c 50 § 8; 1959 c 92 § 9; 1941 c 71 § 11; 1907 c 124 § 11; Rem. Supp. 1941 § 10040-11.]

Additional notes found at www.leg.wa.gov

18.92.125 Veterinary technicians or veterinary medication clerks. No veterinarian who uses the services of a veterinary technician or veterinary medication clerk shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine. A veterinarian retains professional and personal responsibility for any act which constitutes the practice of veterinary medicine as defined in this chapter when performed by a veterinary technician or veterinary medication clerk in his or her employ. [2000 c 93 § 12; 1993 c 78 § 5; 1986 c 259 § 143; 1983 c 102 § 5; 1974 ex.s. c 44 § 6.]

Additional notes found at www.leg.wa.gov

18.92.128 Veterinary technician license. The board shall issue a veterinary technician license to an individual who has:

- (1) Successfully completed required examinations administered or approved by the board; and
- (2) Successfully completed a posthigh school course approved by the board in the care and treatment of animals. [2010 c 123 § 2; 2010 c 123 § 1; 2007 c 235 § 2.]

Effective date—2010 c 123 § 2: "Section 2 of this act takes effect July 1, 2015." [2010 c 123 § 3.]

18.92.130 License—Reciprocity with other states—Fee. Any person who has been lawfully licensed to practice veterinary medicine, surgery, and dentistry in another state or territory which has and maintains a standard for the practice of veterinary medicine, surgery and dentistry which is substantially the same as that maintained in this state, and who has been lawfully and continuously engaged in the practice of veterinary medicine, surgery and dentistry for two years or more immediately before filing his or her application to practice in this state and who shall submit to the secretary a duly attested certificate from the examining board of the state or territory in which he or she is registered, certifying to the fact of his or her registration and of his or her being a person of good moral character and of professional attainments, may upon the payment of the fee as provided herein, be granted a license to practice veterinary medicine, surgery and dentistry in this state, without being required to take an examination: PROVIDED, HOWEVER, That no license shall be issued to any applicant, unless the state or territory from which such certificate has been granted to such applicant shall have extended a like privilege to engage in the practice of veterinary medicine, surgery and dentistry within its own borders to veterinarians heretofore and hereafter licensed by this

state, and removing to such other state: AND PROVIDED FURTHER, That the secretary of health shall have power to enter into reciprocal relations with other states whose requirements are substantially the same as those provided herein. The board shall make recommendations to the secretary upon all requests for reciprocity. [1991 c 3 § 246; 1959 c 92 § 10; 1941 c 71 § 12; Rem. Supp. 1941 § 10040-12.]

18.92.135 License to practice specialized veterinary medicine. (1) The department may issue a license to practice specialized veterinary medicine in this state to a veterinarian who:

(a) Submits an application on a form provided by the secretary for a license in a specialty area recognized by the board by rule;

(b) Holds a current certification as a diplomate of a national specialty board or college recognized by the board by rule in the specialty area for which application is submitted;

(c) Is not subject to license investigation, suspension, revocation, or other disciplinary action in any state, United States territory, or province of Canada;

(d) Has successfully completed an examination established by the board regarding this state's laws and rules regulating the practice of veterinary medicine; and

(e) Provides other information and verification required by the board.

(2) A veterinarian licensed to practice specialized veterinary medicine shall not practice outside his or her licensed specialty unless he or she meets licensing requirements established for practicing veterinary medicine, surgery, and dentistry under RCW 18.92.070 and 18.92.100.

(3) The board shall determine by rule the limits of the practice of veterinary medicine, surgery, and dentistry represented by a license to practice specialized veterinary medicine.

(4) The board may deny, revoke, suspend, or modify a license to practice specialized veterinary medicine if the national specialty board or college certifying the licensee denies, revokes, suspends, modifies, withdraws, or otherwise limits the certification or if the certification expires. [1991 c 332 § 41.]

Additional notes found at www.leg.wa.gov

18.92.140 License—Procedures, requirements, fees. Each person now qualified to practice veterinary medicine, surgery, and dentistry, licensed as a veterinary technician, or registered as a veterinary medication clerk in this state or who becomes licensed or registered to engage in practice shall comply with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. [2007 c 235 § 6; 2000 c 93 § 13; 1996 c 191 § 79; 1993 c 78 § 6; 1991 c 3 § 247; 1985 c 7 § 72; 1983 c 102 § 6; 1941 c 71 § 16; Rem. Supp. 1941 § 10040-16. FORMER PARTS OF SECTION: (i) 1941 c 71 § 17; Rem. Supp. 1941 § 10040-17, now codified as RCW 18.92.142. (ii) 1941 c 71 § 19, part; Rem. Supp. 1941 § 10040-19, part, now codified as RCW 18.92.145.]

18.92.145 License, certificates of registration, permit, examination, and renewal fees. Administrative proce-

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dures, administrative requirements, and fees shall be established as provided in RCW 43.70.250 and 43.70.280 for the issuance, renewal, or administration of the following licenses, certificates of registration, permits, duplicate licenses, renewals, or examination:

(1) For a license to practice veterinary medicine, surgery, and dentistry issued upon an examination given by the examining board;

(2) For a license to practice veterinary medicine, surgery, and dentistry issued upon the basis of a license issued in another state;

(3) For a license as a veterinary technician;

(4) For a certificate of registration as a veterinary medication clerk;

(5) For a temporary permit to practice veterinary medicine, surgery, and dentistry. The temporary permit fee shall be accompanied by the full amount of the examination fee; and

(6) For a license to practice specialized veterinary medicine. [2007 c 235 § 7; 2000 c 93 § 14; 1996 c 191 § 80; 1993 c 78 § 7; 1991 c 332 § 42; 1991 c 3 § 248; 1985 c 7 § 73; 1983 c 102 § 7; 1975 1st ex.s. c 30 § 84; 1971 ex.s. c 266 § 20; 1967 ex.s. c 50 § 9; 1959 c 92 § 12; 1941 c 71 § 19; Rem. Supp. 1941 § 10040-19. Prior: 1907 c 124 §§ 9, 10. Formerly RCW 18.92.090 and 18.92.140.]

Additional notes found at www.leg.wa.gov

18.92.150 License—Display. Every person holding a license under the provisions of this chapter shall conspicuously display it in his or her principal place of business, together with the annual renewal license certificate. [2011 c 336 § 500; 1941 c 71 § 18; Rem. Supp. 1941 § 10040-18.]

18.92.230 Use of another's license or diploma a felony. Any person filing or attempting to file, as his or her own, the diploma or license of another is guilty of forgery under RCW 9A.60.020. [2003 c 53 § 139; 1941 c 71 § 23; Rem. Supp. 1941 § 10040-23.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Forgery: RCW 9A.60.020.

18.92.240 Violations generally—Penalty. Violation of any of the provisions of this chapter, or of any rule or regulation made pursuant thereto, shall constitute a misdemeanor and punishable by fine of not less than fifty dollars. [1941 c 71 § 24; Rem. Supp. 1941 § 10040-24.]

18.92.250 Intent—Veterinary services—Low-income households. The legislature recognizes that low-income households may not receive needed veterinary services for household pets. It is the intent of the legislature to allow qualified animal control agencies and humane societies to provide limited veterinary services to low-income members of our communities. It is not the intent of the legislature to allow these agencies to provide veterinary services to the public at large. [2002 c 157 § 1.]

Additional notes found at www.leg.wa.gov

18.92.260 Animal care societies/nonprofit humane societies—Low-income households—License required—

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Rule-making authority—Uniform disciplinary act—Registration—Fees. (1)(a) Subject to the limitations in this section, animal care and control agencies as defined in RCW 16.52.011 and nonprofit humane societies, that have qualified under section 501(c)(3) of the internal revenue code may provide limited veterinary services to animals owned by qualified low-income households. The veterinary services provided shall be limited to electronic identification, surgical sterilization, and vaccinations. A veterinarian or veterinary technician acting within his or her scope of practice must perform the limited veterinary services. For purposes of this section, "low-income household" means the same as in RCW 43.185A.010.

(b) Animal control agencies and nonprofit humane societies, receiving animals on an emergency basis, may provide emergency care, subject to a local ordinance that defines an emergency situation and establishes temporary time limits.

(c) Any local ordinance addressing the needs under this section that was approved by the voters and is in effect on July 1, 2003, remains in effect.

(2) Veterinarians and veterinary technicians employed at these facilities must be licensed under this chapter. No officer, director, supervisor, or any other individual associated with an animal care or control agency or nonprofit humane society owning and operating a veterinary medical facility may impose any terms or conditions of employment or direct or attempt to direct an employed veterinarian in any way that interferes with the free exercise of the veterinarian's professional judgment or infringes upon the utilization of his or her professional skills.

(3) Veterinarians, veterinary technicians, and animal control agencies and humane societies acting under this section shall, for purposes of providing the limited veterinary services, meet the requirements established under this chapter and are subject to the rules adopted by the veterinary board of governors in the same fashion as any licensed veterinarian or veterinary medical facility in the state.

(4) The Washington state veterinary board of governors shall adopt rules to:

(a) Establish registration and registration renewal requirements;

(b) Govern the purchase and use of drugs for the limited veterinary services authorized under this section; and

(c) Ensure that agencies and societies are in compliance with this section.

(5) The limited veterinary medical service authority granted by registration under this section may be denied, suspended, revoked, or conditioned by a determination of the board of governors for any act of noncompliance with this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unregistered operation, the issuance and denial of registrations, and the discipline of registrants under this section.

(6) No animal control agency or humane society may operate under this chapter without registering with the department. An application for registration shall be made upon forms provided by the department and shall include the information the department reasonably requires, as provided by RCW 43.70.280. The department shall establish registration and renewal fees as provided by RCW 43.70.250. A reg-

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istration fee shall accompany each application for registration or renewal. [2002 c 157 § 2.]

Additional notes found at www.leg.wa.gov

Chapter 18.96 RCW LANDSCAPE ARCHITECTS

Sections

18.96.010	Evidence of qualifications required.
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18.96.220	Application—Professions and activities not affected.
18.96.230	Military training or experience.
18.96.901	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Public contracts for architectural services: Chapter 39.80 RCW.

18.96.010 Evidence of qualifications required. In order to safeguard human health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice landscape architecture for hire shall be required to submit evidence that he or she is qualified so to practice and shall be licensed under the provisions of this chapter. [2009 c 370 § 2; 1969 ex.s. c 158 § 1.]

Finding—2009 c 370: "The legislature finds that in order to safeguard life, health, and property and to promote public welfare, it is necessary to regulate the practice of landscape architecture, based on the first action taken to regulate the profession in 1969, and subsequent review in year 1988 along with review and revisions in 2009." [2009 c 370 § 1.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: "Sections 1 through 16, 18, 20, and 21 of this act take effect July 1, 2010." [2009 c 370 § 24.]

18.96.020 Use of titles, descriptions, and phrases—License or authorization required. (1) It is unlawful for any person to practice or offer to practice in this state, landscape architecture, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including the phrases "landscape architect," "landscape architecture," "landscape architectural," or language tending to imply that he or she is a landscape architect, unless the person is licensed or authorized to practice in the state of Washington under this chapter.

(2) A person may use the title "intern landscape architect" after graduation from an accredited degree program in landscape architecture and working under the direct supervision of a licensed landscape architect.

(3) This section does not affect the use of the phrases "landscape architect," "landscape architecture," or "land-

scape architectural" where a person does not practice or offer to practice landscape architecture. [2009 c 370 § 3; 1969 ex.s. c 158 § 2.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.030 Definitions. The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Administration of the construction contract" means the periodic observation of materials and work to observe the general compliance with the construction contract documents, and does not include responsibility for supervising construction methods and processes, site conditions, equipment operations, personnel, or safety on the worksite.

(2) "Board" means the state board of licensure for landscape architects.

(3) "Certificate of licensure" means the certificate issued by the director to newly licensed landscape architects.

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

(5) "Design" means the conceiving, planning, delineation, siting, and arrangement of natural and built features. Where applied to the discussion of structures or utility systems, design does not include the act of engineering such features.

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

(7) "Engineer" means an individual who is registered as an engineer under chapter 18.43 RCW.

(8) "Engineering" means the "practice of engineering" as defined in RCW 18.43.020.

(9) "Landscape architect" means an individual who engages in the practice of landscape architecture.

(10) "Landscape architecture" means the rendering of professional services in connection with consultations, investigations, reconnaissance, research, planning, design, construction document preparation, construction administration, or teaching supervision in connection with the development of land areas where, and to the extent that, the dominant purpose of such services is the preservation, enhancement, or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings and approaches to structures or other improvements, or natural drainage and erosion control. This practice includes the location, design, and arrangement of such tangible objects as pools, walls, steps, trellises, canopies, and such features as are incidental and necessary to the purposes in this chapter. Landscape architecture involves the design and arrangement of land forms and the development of outdoor space including, but not limited to, the design of public parks, trails, playgrounds, cemeteries, home and school grounds, and the development of industrial and recreational sites.

(11) "Licensed" means holding a currently valid certificate of licensure issued by the director authorizing the practice of landscape architecture.

(12) "Person" means any individual, partnership, professional service corporation, corporation, joint stock association, joint venture, or any other entity authorized to do business in the state.

(13) "Practice of landscape architecture" means the rendering of services where landscape architectural education,

training, experience, and the application of mathematical, physical, and social science principles are applied in consultation, evaluation, planning, design including, but not limited to, the preparation and filing of plans, drawings, specifications, and other contract documents, and administration of contracts relative to projects principally directed at the functional and aesthetic use and preservation of land. [2009 c 370 § 4; 1979 c 158 § 73; 1969 ex.s. c 158 § 3.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.040 Licensure board for landscape architects—Members—Qualifications. (1)(a) There is created a licensure board for landscape architects consisting of five members appointed by the governor.

(b) Four members shall be licensed landscape architects who are residents of the state and have at least eight years' experience in the practice of landscape architecture as registered or licensed landscape architects in responsible charge of landscape architectural work or responsible charge of landscape architectural teaching. One member shall be a public member, who is not and has never been a registered or licensed landscape architect and who does not employ and is not employed by or professionally or financially associated with a landscape architect.

(c) The term of each newly appointed member shall be six years.

(2)(a) Every member of the board shall receive a certificate of appointment from the governor. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of six years or until the next successor has been appointed.

(b) The governor may remove any member of the board for cause. Vacancies in the board for any reason shall be filled by appointment for the unexpired term.

(3) The board shall elect a chair, a vice chair, and a secretary. The secretary may delegate his or her authority to the executive director.

(4) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [2011 c 336 § 501; 2009 c 370 § 5; 1993 c 35 § 1; 1985 c 18 § 1; 1969 ex.s. c 158 § 4.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Additional notes found at www.leg.wa.gov

18.96.060 Board—Adoption of rules—Executive director. (1) The board may adopt such rules under chapter 34.05 RCW as are necessary for the proper performance of its duties under this chapter.

(2) The director may employ an executive director subject to approval of the board. [2009 c 370 § 6; 2002 c 86 § 234; 1969 ex.s. c 158 § 6.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Additional notes found at www.leg.wa.gov

18.96.070 Qualifications of applicants. This section establishes the minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional landscape architect.

(1) A certificate of licensure shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required education and work experience.

(2) An applicant for licensure as a landscape architect shall be of a good moral character, at least eighteen years of age, and shall possess one of the following qualifications:

(a) Have a professional landscape architectural degree from an institution of higher education accredited by the national landscape architecture accreditation board, or an equivalent degree in landscape architecture as determined by the board, and three years of practical landscape architectural work experience under the supervision of a registered or licensed landscape architect; or

(b) Have a high school diploma or equivalent and eight years' practical landscape architectural work experience, which may include landscape design as a principal activity and postsecondary education approved by the board. At least six years of work experience must be under the direct supervision of a registered or licensed landscape architect. An applicant may receive up to two years of practical landscape architectural work experience for postsecondary education courses in landscape architecture, landscape architectural technology, or a related field, including courses in a community or technical college, if the courses are equivalent to education courses in an accredited landscape architectural degree program. [2009 c 370 § 7; 1969 ex.s. c 158 § 7.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.080 Applications for licensure and examinations—Fees. (1) Application for licensure shall be filed with the board as provided by rule.

(2) The application for examination shall be filed with the board as prescribed by rule.

(3) The application and examination fees shall be determined by the director under RCW 43.24.086. [2009 c 370 § 8; 1993 c 35 § 2; 1985 c 7 § 74; 1975 1st ex.s. c 30 § 85; 1969 ex.s. c 158 § 8.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.090 Examinations. (1) Examinations of landscape architects for certificates of licensure shall be held at least annually at such time and place as the board determines.

(2) The board shall determine the content, scope, and grading process of the examination. The board may adopt an appropriate national examination and grading procedure.

(3) Applicants who fail to pass any section of the examination shall be permitted to retake the parts failed as prescribed by the board. If the entire examination is not successfully completed within five years, a retake of the entire examination is required.

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(4) Applicants for licensure may begin taking the examination upon graduating from an accredited landscape architecture program if the applicant is employed under the supervision of a registered or licensed landscape architect.

(5) The director shall issue a certificate of licensure to qualified applicants as provided in RCW 18.96.150. [2009 c 370 § 9; 1993 c 35 § 3; 1985 c 18 § 2; 1969 ex.s. c 158 § 9.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Additional notes found at www.leg.wa.gov

18.96.100 Reciprocity. (1) The director may, upon receipt of the current licensure fee, grant a certificate of licensure to an applicant who is a licensed landscape architect in another state or territory of the United States, the District of Columbia, or another country, if that individual's qualifications and experience are determined by the board to be equivalent to the qualifications and experience required of a person licensed under RCW 18.96.070.

(2) A landscape architect licensed or registered in any other jurisdiction recognized by the board may offer to practice landscape architecture in this state if:

(a) It is clearly and prominently stated in any such offer that the landscape architect is not licensed to practice landscape architecture in Washington state; and

(b) Before practicing landscape architecture or signing a contract to provide landscape architectural services, the landscape architect obtains a certificate of licensure. [2009 c 370 § 10; 1993 c 35 § 4; 1985 c 7 § 75; 1975 1st ex.s. c 30 § 86; 1969 ex.s. c 158 § 10.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.110 Renewals. (1) The renewal dates and fees for certificates of licensure shall be set by the director in accordance with RCW 43.24.086. Licensees who fail to pay the renewal fee within thirty days of the due date shall pay all delinquent fees plus a penalty fee equal to one-third of the renewal fee. A licensee who fails to pay a renewal fee for a period of five years may be reinstated under such circumstances as the board determines.

(2) Any licensee in good standing may withdraw from the practice of landscape architecture by giving written notice to the director, and may within five years thereafter resume active practice upon payment of the then-current renewal fee. A licensee may be reinstated after a withdrawal of more than five years under such circumstances as the board determines.

(3) A licensed landscape architect must demonstrate continuing professional education activities since the landscape architect's last renewal or initial licensure, as the case may be; the board shall by rule describe the professional development activities required by the board. The board may decline to renew a license if the landscape architect's continuing professional education activities do not meet the standards in the board's rules. In the application of this subsection, the board shall strive to ensure that rules are consistent with the continuing professional education requirements in use by the national professional organizations representing landscape architects and in use by other cohort states. Cohort

states are those other United States determined by the board to be comparable to Washington in natural factors and landscape architecture licensure. [2009 c 370 § 11; 1993 c 35 § 5. Prior: 1985 c 18 § 3; 1985 c 7 § 76; 1975 1st ex.s. c 30 § 87; 1969 ex.s. c 158 § 11.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Additional notes found at www.leg.wa.gov

18.96.120 Unprofessional conduct—Grounds for disciplinary action. The board may impose any action in RCW 18.235.110 upon the following grounds:

(1) Offering to pay, paying, or accepting, either directly or indirectly, any substantial gift, bribe, or other consideration to influence the award of professional work;

(2) Being willfully untruthful or deceptive in any professional report, statement, or testimony;

(3) Having a financial interest in the bidding for or the performance of a contract to supply labor or materials for or to construct a project for which employed or retained as a landscape architect except with the consent of the client or employer after disclosure of such facts; or allowing an interest in any business to affect a decision regarding landscape architectural work for which retained, employed, or called upon to perform;

(4) Signing or permitting a seal to be affixed to any drawings or specifications that were not prepared or reviewed by the landscape architect or under the landscape architect's personal supervision by persons subject to the landscape architect's direction and control; or

(5) Willfully evading or trying to evade any law, ordinance, code, or regulation governing site or landscape construction. [2009 c 370 § 12; 2002 c 86 § 235; 1997 c 58 § 827; 1969 ex.s. c 158 § 12.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.96.140 Reissuance of lost or destroyed certificates. A new certificate of licensure to replace any certificate lost or destroyed, or mutilated may be issued by the director, and a charge determined by the director as provided in RCW 43.24.086 shall be made for such issuance. [2009 c 370 § 13; 2002 c 86 § 236; 1985 c 7 § 77; 1975 1st ex.s. c 30 § 88; 1969 ex.s. c 158 § 14.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Additional notes found at www.leg.wa.gov

18.96.150 Certificates of licensure—Issuance—Contents—Seal. (1) The director shall issue a certificate of licensure to any applicant who has, to the satisfaction of the board, met all the requirements for licensure upon payment of the licensure fee as provided in this chapter. All certificates of licensure shall show the full name of the licensee, have the license number, and shall be signed by the chair of the board

and by the director. The issuance of a certificate of licensure by the director is prima facie evidence that the person named therein is entitled to all the rights and privileges of a licensed landscape architect.

(2) Each licensee shall obtain a seal of the design authorized by the board bearing the landscape architect's name, license number, the legend "Licensed Landscape Architect," and the name of this state. Drawings prepared by the licensee shall be sealed and signed by the licensee when filed with public authorities. It is unlawful to seal and sign a document after a licensee's certificate of licensure or authorization has expired, been revoked, or is suspended. A landscape architect shall not seal and sign technical submissions not prepared by the landscape architect or his or her regularly employed subordinates or individuals under his or her direct control, or if prepared by a landscape architect licensed in any jurisdiction recognized by the board, reviewed and accepted as the sealing landscape architect's own work; a landscape architect who signs or seals drawings or specifications that he or she has reviewed is responsible to the same extent as if prepared by that landscape architect. [2009 c 370 § 14; 1993 c 35 § 6; 1969 ex.s. c 158 § 15.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.180 Certificate of licensure suspension—Non-compliance with support order—Reissuance. The board, through the director, shall immediately suspend the certificate of licensure to practice landscape architecture of a person who has been certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet other requirements for reinstatement during the suspension, reissuance of the certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order. [2009 c 370 § 15; 1969 ex.s. c 158 § 18.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.190 Certificate of licensure suspension—Non-payment or default on educational loan or scholarship. The board, through the director, shall suspend the certificate of licensure of any person who has been certified by a lending agency and reported to the board for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Before the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate of licensure shall not be reissued until the person provides the board a written release

issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification of licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [2009 c 370 § 16; 1996 c 293 § 15.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Additional notes found at www.leg.wa.gov

18.96.200 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 237.]

Additional notes found at www.leg.wa.gov

18.96.210 Landscape architects' license account. The landscape architects' license account is created in the custody of the state treasurer. All receipts from fees under this chapter must be deposited into the account. Expenditures from the account may be used only for administrative and operating purposes under this chapter. Only the director or the director's designees may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2009 c 370 § 17.]

Effective date—2009 c 370 §§ 17 and 19: "Sections 17 and 19 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2009." [2009 c 370 § 23.]

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.220 Application—Professions and activities not affected. This chapter does not affect or prevent:

(1) The practice of architecture, land surveying, engineering, geology, or any recognized profession by persons not licensed as landscape architects;

(2) Drafters, clerks, project managers, superintendents, and other employees of landscape architects from acting under the instructions, control, or supervision of their employers;

(3) The construction, alteration, or supervision of sites by contractors or superintendents employed by contractors or the preparation of shop drawings in connection therewith;

(4) Owners or contractors under chapter 18.27 RCW from engaging persons who are not landscape architects to observe and supervise site construction of a project;

(5) Qualified professional biologists as referenced in chapter 36.70 RCW from providing services for natural site areas that also fall within the definition of the practice of landscape architecture without a violation of this chapter;

(6) The preparation of construction documents including planting plans, landscape materials, or other horticulture-related elements;

(7) Individuals from making plans, drawings, or specifications for any property owned by them and for their own personal use;

(8) The design of irrigation systems; and

(9) Landscape design on residential properties. [2009 c 370 § 18.]

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

18.96.230 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 7.]

18.96.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 48.]

Chapter 18.100 RCW

PROFESSIONAL SERVICE CORPORATIONS

Sections

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18.100.132	Nonprofit professional service corporations formed under prior law.
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18.100.140	Improper conduct not authorized.
18.100.145	Doctor of osteopathic medicine and surgery—Discrimination prohibited.
18.100.160	Foreign professional corporation.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

18.100.010 Legislative intent. It is the legislative intent to provide for the incorporation of an individual or group of individuals to render the same professional service to the public for which such individuals are required by law to be licensed or to obtain other legal authorization. [1969 c 122 § 1.]

18.100.020 Short title. This chapter may be cited as "the professional service corporation act". [1969 c 122 § 2.]

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

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

(2) The term "professional corporation" means a corporation which is organized under this chapter for the purpose of rendering professional service.

(3) The term "ineligible person" means any individual, corporation, partnership, fiduciary, trust, association, government agency, or other entity which for any reason is or becomes ineligible under this chapter to own shares issued by a professional corporation. The term includes a charitable remainder unitrust or charitable remainder annuity trust that is or becomes an ineligible person for failure to comply with subsection (5)(b) of this section.

(4) The term "eligible person" means an individual, corporation, partnership, fiduciary, qualified trust, association, government agency, or other entity, that is eligible under this chapter to own shares issued by a professional corporation.

(5) The term "qualified trust" means one of the following:

(a) A voting trust established under RCW 23B.07.300, if the beneficial owner of any shares on deposit and the trustee of the voting trust are qualified persons;

(b) A charitable remainder unitrust as defined in section 664(d)(1) of the internal revenue code or a charitable remainder annuity trust as defined in section 664(d)(2) or 664(d)(3) of the internal revenue code if the trust complies with each of the following conditions:

(i) Has one or more beneficiaries currently entitled to income, unitrust, or annuity payments, all of whom are eligible persons or spouses of eligible persons;

(ii) Has a trustee who is an eligible person and has exclusive authority over the share of the professional corporation while the shares are held in the trust, except that a cotrustee who is not an eligible person may be given authority over decisions relating to the sale of shares by the trust;

(iii) Has one or more designated charitable remaindermen, all of which must at all times be domiciled or maintain a local chapter in Washington state; and

(iv) When distributing any assets during the term of the trust to charitable organizations, the distributions are made only to charitable organizations described in section 170(c) of the internal revenue code that are domiciled or maintain a local chapter in Washington state. [1997 c 18 § 1; 1983 c 51 § 2; 1969 c 122 § 3.]

18.100.040 Application of chapter to previously organized corporations. This chapter shall not apply to any individuals or groups of individuals within this state who prior to the passage of this chapter were permitted to organize a corporation and perform personal services to the public by means of a corporation, and this chapter shall not apply to any corporation organized by such individual or group of individuals prior to the passage of this chapter: PROVIDED, That any such individual or group of individuals or any such corporation may bring themselves and such corporation within the provisions of this chapter by amending the articles of incorporation in such a manner so as to be consistent with all the provisions of this chapter and by affirmatively stating in the amended articles of incorporation that the shareholders have elected to bring the corporation within the provisions of this chapter. [1969 c 122 § 4.]

18.100.050 Organization of professional service corporations authorized generally—Architects, engineers, and health care professionals—Nonprofit corporations.

(1) An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Title 23B RCW for the purpose of rendering professional service. One or more of the legally authorized individuals shall be the incorporators of the professional corporation.

(2) Notwithstanding any other provision of this chapter, registered architects and registered engineers may own stock in and render their individual professional services through one professional service corporation.

(3) Licensed health care professionals, providing services to enrolled participants either directly or through arrangements with a health maintenance organization registered under chapter 48.46 RCW or federally qualified health maintenance organization, may own stock in and render their individual professional services through one professional service corporation.

(4) Professionals may organize a nonprofit nonstock corporation under this chapter and chapter 24.03 RCW to provide professional services, and the provisions of this chapter relating to stock and referring to Title 23B RCW shall not apply to any such corporation.

(5)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.225, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own stock in and render their individual professional services through one professional service corpo-

ration and are to be considered, for the purpose of forming a professional service corporation, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) Notwithstanding any other provision of this chapter, health care professionals who are regulated under chapters 18.59 and 18.74 RCW may own stock in and render their individual professional services through one professional service corporation formed for the sole purpose of providing professional services within their respective scope of practice.

(c) Formation of a professional service corporation under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential. [2001 c 251 § 29; 1999 c 128 § 1; 1997 c 390 § 3; 1996 c 22 § 1; 1991 c 72 § 3; 1986 c 261 § 1; 1983 c 100 § 1; 1969 c 122 § 5.]

Additional notes found at www.leg.wa.gov

18.100.060 Rendering of services by authorized individuals. (1) No corporation organized under this chapter may render professional services except through individuals who are duly licensed or otherwise legally authorized to render such professional services within this state. However, nothing in this chapter shall be interpreted to:

(a) Prohibit a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a professional corporation in this state organized for the purpose of rendering the same professional services;

(b) Prohibit a professional corporation from rendering services outside this state through individuals who are not duly licensed or otherwise legally authorized to render professional services within this state; or

(c) Require the licensing of clerks, secretaries, bookkeepers, technicians, and other assistants employed by a professional corporation who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required.

(2) Persons engaged in a profession and otherwise meeting the requirements of this chapter may operate under this chapter as a professional corporation so long as each shareholder personally engaged in the practice of the profession in this state is duly licensed or otherwise legally authorized to practice the profession in this state and:

(a) At least one officer and one director of the corporation is duly licensed or otherwise legally authorized to practice the profession in this state; or

(b) Each officer in charge of an office of the corporation in this state is duly licensed or otherwise legally authorized to practice the profession in this state. [1998 c 293 § 1; 1983 c 51 § 3; 1969 c 122 § 6.]

18.100.065 Authority of directors, officers to render same services as corporation. Except as otherwise provided in RCW 18.100.118, all directors of a corporation organized

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under this chapter and all officers other than the secretary and the treasurer shall be duly licensed or otherwise legally authorized to render the same specific professional services within this or any other state as those for which the corporation was incorporated. [1998 c 293 § 2; 1983 c 51 § 7.]

18.100.070 Professional relationships and liabilities preserved. Nothing contained in this chapter shall be interpreted to abolish, repeal, modify, restrict, or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional service and the standards for professional conduct. Any director, officer, shareholder, agent, or employee of a corporation organized under this chapter shall remain personally and fully liable and accountable for any negligent or wrongful acts or misconduct committed by him or her or by any person under his or her direct supervision and control, while rendering professional services on behalf of the corporation to the person for whom such professional services were being rendered. The corporation shall be liable for any negligent or wrongful acts of misconduct committed by any of its directors, officers, shareholders, agents, or employees while they are engaged on behalf of the corporation, in the rendering of professional services. [2011 c 336 § 502; 1969 c 122 § 7.]

18.100.080 Engaging in other business prohibited—Investments. No professional service corporation organized under this chapter shall engage in any business other than the rendering of the professional services for which it was incorporated or service as a trustee as authorized by RCW 11.36.021 or as a personal representative as authorized by RCW 11.36.010: PROVIDED, That nothing in this chapter or in any other provisions of existing law applicable to corporations shall be interpreted to prohibit such corporation from investing its funds in real estate, personal property, mortgages, stocks, bonds, insurance, or any other type of investments. [1984 c 149 § 170; 1969 c 122 § 8.]

Additional notes found at www.leg.wa.gov

18.100.090 Stock issuance. Except as otherwise provided in RCW 18.100.118, no professional corporation organized under the provisions of this chapter may issue any of its capital stock to anyone other than the trustee of a qualified trust or an individual who is duly licensed or otherwise legally authorized to render the same specific professional services within this or any other state as those for which the corporation was incorporated. [1998 c 293 § 3; 1997 c 18 § 2; 1983 c 51 § 4; 1969 c 122 § 9.]

18.100.095 Validity of share voting agreements. Except for qualified trusts, a proxy, voting trust, or other voting agreement with respect to shares of a professional corporation shall not be valid unless all holders thereof, all trustees and beneficiaries thereof, or all parties thereto, as the case may be, are eligible to be shareholders of the corporation. [1997 c 18 § 3; 1983 c 51 § 12.]

18.100.100 Legal qualification of officer, shareholder or employee to render professional service, effect. Unless a director, officer, shareholder, agent or employee of a corpo-

ration organized under this chapter who has been rendering professional service to the public is legally qualified at all times to render such professional services within at least one state in which the corporation conducts business, he or she shall sever all employment with, and financial interests in, such corporation forthwith. A corporation's failure to require compliance with this provision shall constitute a ground for the forfeiture of its articles of incorporation and its dissolution. When a corporation's failure to comply with this provision is brought to the attention of the office of the secretary of state, the secretary of state forthwith shall certify that fact to the attorney general for appropriate action to dissolve the corporation. [1998 c 293 § 4; 1969 c 122 § 10.]

18.100.110 Sale or transfer of shares. No shareholder of a corporation organized as a professional corporation may sell or transfer his or her shares in such corporation except to the trustee of a qualified trust or another individual who is eligible to be a shareholder of such corporation. Any transfer of shares in violation of this section shall be void. However, nothing in this section prohibits the transfer of shares of a professional corporation by operation of law or court decree. [1997 c 18 § 4; 1983 c 51 § 5; 1969 c 122 § 11.]

18.100.114 Merger or consolidation. A corporation organized under this chapter may merge or consolidate with another corporation, domestic or foreign, organized to render the same specific professional services, only if every shareholder of each corporation is eligible to be a shareholder of the surviving or new corporation. [1998 c 293 § 6; 1983 c 51 § 8.]

18.100.116 Death of shareholder, transfer to ineligible person—Treatment of shares. (1) If:

- (a)(i) A shareholder of a professional corporation dies;
- (ii) A shareholder of a professional corporation becomes an ineligible person;
- (iii) Shares of a professional corporation are transferred by operation of law or court decree to an ineligible person; or
- (iv) A charitable remainder unitrust or charitable remainder annuity trust that holds shares of a professional corporation becomes an ineligible person; and

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

(2) If such a redemption or transfer of the shares held by a deceased shareholder or an ineligible person is not completed within twelve months after the death of the deceased shareholder or the transfer, as the case may be, such shares shall be deemed to be shares with respect to which the holder has elected to exercise the right of dissent described in chapter 23B.13 RCW and has made written demand on the corporation for payment of the fair value of such shares. The corporation shall forthwith cancel the shares on its books and the

deceased shareholder or ineligible person shall have no further interest in the corporation other than the right to payment for the shares as is provided in RCW 23B.13.250. For purposes of the application of RCW 23B.13.250, the date of the corporate action and the date of the shareholder's written demand shall be deemed to be one day after the date on which the twelve-month period from the death of the deceased shareholder, or from the transfer, expires. [1997 c 18 § 5; 1991 c 72 § 4; 1983 c 51 § 10.]

18.100.118 Eligibility of certain representatives and transferees to serve as directors, officers, or shareholders.

If all of the outstanding shares of a professional corporation are held by an administrator, executor, guardian, conservator, or receiver of the estate of a former shareholder, or by a transferee who received such shares by operation of law or court decree, such administrator, executor, guardian, conservator, receiver, or transferee for a period of twelve months following receipt or transfer of such shares may be a director, officer, or shareholder of the professional corporation. [1983 c 51 § 11.]

18.100.120 Name—Listing of shareholders. Corporations organized pursuant to this chapter shall render professional service and exercise its authorized powers under a name permitted by law and the professional ethics of the profession in which the corporation is so engaged. The corporate name of a professional service corporation must comply with the requirements of Article 3 of chapter 23.95 RCW. With the filing of its first annual report and any filings thereafter, a professional service corporation shall list its then shareholders. [2015 c 176 § 9120; 1993 c 290 § 1; 1982 c 35 § 169; 1969 c 122 § 12.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

18.100.130 Application of Business Corporation Act and Nonprofit Corporation Act. (1) For a professional service corporation organized for pecuniary profit under this chapter, the provisions of Title 23B RCW shall be applicable except to the extent that any of the provisions of this chapter are interpreted to be in conflict with the provisions thereof, and in such event the provisions and sections of this chapter shall take precedence with respect to a corporation organized pursuant to the provisions of this chapter.

(2) For a professional service corporation organized under this chapter and chapter 24.03 RCW as a nonprofit nonstock corporation, the provisions of chapter 24.03 RCW shall be applicable except to the extent that any of the provisions of this chapter are interpreted to be in conflict with the provisions thereof, and in such event the provisions and sections of this chapter shall take precedence with respect to a corporation organized under the provisions of this chapter. [1991 c 72 § 5; 1986 c 261 § 2; 1983 c 51 § 6; 1969 c 122 § 13.]

18.100.132 Nonprofit professional service corporations formed under prior law. A nonprofit professional service corporation formed pursuant to *chapter 431, Laws of

1985, may amend its articles of incorporation at any time before July 31, 1987, to comply with the provisions of this chapter. Compliance under this chapter shall relate back and take effect as of the date of formation of the corporation under *chapter 431, Laws of 1985, and the corporate existence shall be deemed to have continued without interruption from that date. [1986 c 261 § 4.]

*Reviser's note: Chapter 431, Laws of 1985 enacted RCW 24.03.038, which was repealed by 1986 c 261 § 7.

18.100.133 Business corporations, election of this chapter. A business corporation formed under the provisions of Title 23B RCW may amend its articles of incorporation to change its stated purpose to the rendering of professional services and to conform to the requirements of this chapter. Upon the effective date of such amendment, the corporation shall be subject to the provisions of this chapter and shall continue in existence as a professional corporation under this chapter. [1991 c 72 § 6; 1986 c 261 § 5.]

18.100.134 Professional services—Deletion from stated purposes of corporation. A professional corporation may amend its articles of incorporation to delete from its stated purposes the rendering of professional services and to conform to the requirements of Title 23B RCW, or to the requirements of chapter 24.03 RCW if organized pursuant to RCW 18.100.050 as a nonprofit nonstock corporation. Upon the effective date of such amendment, the corporation shall no longer be subject to the provisions of this chapter and shall continue in existence as a corporation under Title 23B RCW or chapter 24.03 RCW. [1991 c 72 § 7; 1986 c 261 § 3; 1983 c 51 § 9.]

18.100.140 Improper conduct not authorized. Nothing in this chapter shall authorize a director, officer, shareholder, agent, or employee of a corporation organized under this chapter, or a corporation itself organized under this chapter, to do or perform any act which would be illegal, unethical, or unauthorized conduct under the provisions of the following acts: (1) Physicians and surgeons, chapter 18.71 RCW; (2) anti-rebating act, chapter 19.68 RCW; (3) state bar act, chapter 2.48 RCW; (4) professional accounting act, chapter 18.04 RCW; (5) professional architects act, chapter 18.08 RCW; (6) professional auctioneers act, chapter 18.11 RCW; (7) cosmetologists, barbers, and manicurists, chapter 18.16 RCW; (8) assisted living facilities act, chapter 18.20 RCW; (9) podiatric medicine and surgery, chapter 18.22 RCW; (10) chiropractic act, chapter 18.25 RCW; (11) registration of contractors, chapter 18.27 RCW; (12) debt adjusting act, chapter 18.28 RCW; (13) dental hygienist act, chapter 18.29 RCW; (14) dentistry, chapter 18.32 RCW; (15) dispensing opticians, chapter 18.34 RCW; (16) naturopathic physicians, chapter 18.36A RCW; (17) embalmers and funeral directors, chapter 18.39 RCW; (18) engineers and land surveyors, chapter 18.43 RCW; (19) escrow agents registration act, chapter 18.44 RCW; (20) birthing centers, chapter 18.46 RCW; (21) midwifery, chapter 18.50 RCW; (22) nursing homes, chapter 18.51 RCW; (23) optometry, chapter 18.53 RCW; (24) osteopathic physicians and surgeons, chapter 18.57 RCW; (25) pharmacists, chapter 18.64 RCW; (26) physical therapy, chapter 18.74 RCW; (27) registered nurses,

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advanced registered nurse practitioners, and practical nurses, chapter 18.79 RCW; (28) psychologists, chapter 18.83 RCW; (29) real estate brokers and salespersons, chapter 18.85 RCW; (30) veterinarians, chapter 18.92 RCW. [2012 c 10 § 38; 2011 c 336 § 503; 1994 sp.s. c 9 § 717; 1987 c 447 § 16; 1982 c 35 § 170; 1969 c 122 § 14.]

Application—2012 c 10: See note following RCW 18.20.010.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Additional notes found at www.leg.wa.gov

18.100.145 Doctor of osteopathic medicine and surgery—Discrimination prohibited. A professional service corporation that provides health care services to the general public may not discriminate against a qualified doctor of osteopathic medicine and surgery licensed under chapter 18.57 RCW, who has applied to practice with the professional service corporation, solely because that practitioner was board certified or eligible under an approved osteopathic certifying board instead of board certified or eligible respectively under an approved medical certifying board. [1995 c 64 § 2.]

18.100.160 Foreign professional corporation. A foreign professional corporation may render professional services in this state so long as it complies with chapter 23B.15 RCW and each individual rendering professional services in this state is duly licensed or otherwise legally authorized to render such professional services within this state. [1998 c 293 § 7.]

Chapter 18.104 RCW WATER WELL CONSTRUCTION

Sections

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18.104.930 Effective date—1993 c 387.

18.104.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 237.]

Additional notes found at www.leg.wa.gov

18.104.010 Purpose. The legislature declares that the drilling, making or constructing of wells within the state is a business and activity of vital interest to the public. In order to protect the public health, welfare, and safety of the people it is necessary that provision be made for the regulation and licensing of well contractors and operators and for the regulation of well design and construction. [1993 c 387 § 1; 1971 ex.s. c 212 § 1.]

18.104.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abandoned well" means a well that is unmaintained or is in such disrepair that it is unusable or is a risk to public health and welfare.

(2) "Constructing a well" or "construct a well" means:

(a) Boring, digging, drilling, or excavating a well;

(b) Installing casing, sheeting, lining, or well screens, in a well;

(c) Drilling a geotechnical soil boring; or

(d) Installing an environmental investigation well.

"Constructing a well" or "construct a well" includes the alteration of an existing well.

(3) "Decommission" means to fill or plug a well so that it will not produce water, serve as a channel for movement of water or pollution, or allow the entry of pollutants into the well or aquifers.

(4) "Department" means the department of ecology.

(5) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert groundwater for the purpose of facilitating construction, stabilizing a landslide, or protecting an aquifer.

(6) "Director" means the director of the department of ecology.

(7) "Environmental investigation well" means a cased hole intended or used to extract a sample or samples of groundwater, vapor, or soil from an underground formation and which is decommissioned immediately after the sample or samples are obtained. An environmental investigation well is typically installed using direct push technology or auger boring and uses the probe, stem, auger, or rod as casing. An environmental investigation well is not a geotechnical soil boring.

(8) "Geotechnical soil boring" or "boring" means a well drilled for the purpose of obtaining soil samples or information to ascertain structural properties of the subsurface.

(9) "Ground source heat pump boring" means a vertical boring constructed for the purpose of installing a closed loop heat exchange system for a ground source heat pump.

(10) "Grounding well" means a grounding electrode installed in the earth by the use of drilling equipment to prevent buildup of voltages that may result in undue hazards to

persons or equipment. Examples are anode and cathode protection wells.

(11) "Groundwater" means and includes groundwaters as defined in RCW 90.44.035.

(12) "Instrumentation well" means a well in which pneumatic or electric geotechnical or hydrological instrumentation is permanently or periodically installed to measure or monitor subsurface strength and movement. Instrumentation well includes borehole extensometers, slope indicators, pneumatic or electric pore pressure transducers, and load cells.

(13) "Monitoring well" means a well designed to obtain a representative groundwater sample or designed to measure the water level elevation in either clean or contaminated water or soil.

(14) "Observation well" means a well designed to measure the depth to the water level elevation in either clean or contaminated water or soil.

(15) "Operator" means a person who (a) is employed by a well contractor; (b) is licensed under this chapter; or (c) who controls, supervises, or oversees the construction of a well or who operates well construction equipment.

(16) "Owner" or "well owner" means the person, firm, partnership, copartnership, corporation, association, other entity, or any combination of these, who owns the property on which the well is or will be constructed or has the right to the well by means of an easement, covenant, or other enforceable legal instrument for the purpose of benefiting from the well.

(17) "Pollution" and "contamination" have the meanings provided in RCW 90.48.020.

(18) "Remediation well" means a well intended or used to withdraw groundwater or inject water, air (for air sparging), or other solutions into the subsurface for the purpose of remediating, cleaning up, or controlling potential or actual groundwater contamination.

(19) "Resource protection well" means a cased boring intended or used to collect subsurface information or to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, remediation wells, environmental investigation wells, vapor extraction wells, ground source heat pump boring, grounding wells, and instrumentation wells.

(20) "Resource protection well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing resource protection wells or geotechnical soil borings.

(21) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering, or withdrawal of groundwater. "Water wells" include ground source heat pump borings and grounding wells.

(22) "Water well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing water wells.

(23)(a) "Well" means water wells, resource protection wells, dewatering wells, and geotechnical soil borings.

(b) Well does not mean an excavation made for the purpose of:

(i) Obtaining or prospecting for oil, natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products;

(ii) Siting and constructing an on-site sewage disposal system as defined in RCW 70.118.020 or a large on-site sewage system as defined in RCW 70.118B.010; or

(iii) Inserting any device or instrument less than ten feet in depth into the soil for the sole purpose of performing soil or water testing or analysis or establishing soil moisture content as long as there is no withdrawal of water in any quantity other than as necessary to perform the intended testing or analysis.

(24) "Well contractor" means a resource protection well contractor and a water well contractor licensed and bonded under chapter 18.27 RCW. [2011 c 196 § 1; 2005 c 84 § 1; 2002 c 48 § 1; 2000 c 171 § 26; 1993 c 387 § 2; 1983 1st ex.s. c 27 § 14; 1971 ex.s. c 212 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

18.104.030 Compliance enjoined. It is unlawful:

(1) For any person to supervise, construct, alter, or decommission a well without complying with the provisions of this chapter and the rules for well construction adopted pursuant to this chapter;

(2) For any person to cause a well to be constructed in violation of the standards for well construction established by this chapter and rules adopted by the department pursuant to this chapter;

(3) For a prospective water well owner to have a water well constructed without first obtaining a water right permit, if a permit is required;

(4) For any person to construct, alter, or decommission a well unless the fees required by RCW 18.104.055 have been paid;

(5) For a person to tamper with or remove a well identification tag except during well alteration; and

(6) Except as provided in RCW 18.104.180, for any person to contract to engage in the construction of a well or to act as a well operator without first obtaining a license pursuant to this chapter. [1993 c 387 § 3; 1971 ex.s. c 212 § 3.]

18.104.040 Powers of department. The department shall have the power:

(1) To issue, deny, suspend or revoke licenses pursuant to the provisions of this chapter;

(2) At all reasonable times, to enter upon lands for the purpose of inspecting, taking measurements from, or tagging any well, constructed or being constructed;

(3) To call upon or receive professional or technical advice from the department of health, the technical advisory group created in RCW 18.104.190, or any other public agency or person;

(4) To adopt rules, in consultation with the department of health and the technical advisory group created in RCW 18.104.190, governing licensing and well construction as may be appropriate to carry out the purposes of this chapter. The rules adopted by the department may include, but are not limited to:

(a) Standards for the construction and maintenance of wells and their casings;

(b) Methods of capping, sealing, and decommissioning wells to prevent contamination of groundwater resources and to protect public health and safety;

(c) Methods of artificial recharge of groundwater bodies and of construction of wells which insure separation of individual water bearing formations;

(d) The manner of conducting and the content of examinations required to be taken by applicants for license hereunder;

(e) Requirements for the filing of notices of intent, well reports, and the payment of fees;

(f) Reporting requirements of well contractors;

(g) Limitations on well construction in areas identified by the department as requiring intensive control of withdrawals in the interests of sound management of the groundwater resource;

(5) To require the operator in the construction of a well and the property owner in the maintenance of a well to guard against waste and contamination of the groundwater resources;

(6) To require the operator to place a well identification tag on a new well and on an existing well on which work is performed after the effective date of rules requiring well identification tags and to place or require the owner to place a well identification tag on an existing well;

(7) To require the well owner to repair or decommission any well:

(a) That is abandoned, unusable, or not intended for future use; or

(b) That is an environmental, safety, or public health hazard. [1993 c 387 § 4; 1991 c 3 § 249; 1971 ex.s. c 212 § 4.]

18.104.043 Well sealing and decommissioning—Delegation of authority. (1) If requested in writing by the governing body of a local health district or county, the department by memorandum of agreement may delegate to the governing body the authority to administer and enforce the well tagging, sealing, and decommissioning portions of the water well construction program.

(2) The department shall determine whether a local health district or county that seeks delegation under this section has the resources, capability, and expertise, including qualified field inspectors, to administer the delegated program. If the department determines the local government has these resources, it shall notify well contractors and operators of the proposal. The department shall accept written comments on the proposal for sixty days after the notice is mailed.

(3) If the department determines that a delegation of authority to a local health district or county to administer and enforce the well sealing and decommissioning portions of the water well construction program will enhance the public health and safety and the environment, the department and the local governing body may enter into a memorandum of agreement setting forth the specific authorities delegated by the department to the local governing body. The memorandum of agreement must be, at a minimum, reviewed annually. The department, in consultation with the technical advisory group, created under RCW 18.104.190, shall adopt rules

outlining the annual review and reporting process. A detailed summary of the review must be made available to well contractors and operators upon request and be published on the department's web site.

(4) With regard to the portions of the water well construction program delegated under this section, the local governing agency shall exercise only the authority delegated to it under this section. If, after a public hearing, the department determines that a local governing body is not administering the program in accordance with this chapter, it shall notify the local governing body of the deficiencies. If corrective action is not taken within a reasonable time, not to exceed sixty days, the department by order shall withdraw the delegation of authority.

(5) The department shall promptly furnish the local governing body with a copy of each water well report and notification of start cards received in the area covered by a delegated program.

(6) The department and the local governing body shall coordinate to reduce duplication of effort and shall share all appropriate information including technical reports, violations, and well reports.

(7) Any person aggrieved by a decision of a local health district or county under a delegated program may appeal the decision to the department. The department's decision is subject to review by the pollution control hearings board as provided in RCW 43.21B.110.

(8) The department shall not delegate the authority to license well contractors, renew licenses, receive notices of intent to commence constructing a well, receive well reports, or collect state fees provided for in this chapter. [2005 c 84 § 2; 2000 c 32 § 1; 1996 c 12 § 2; 1993 c 387 § 5; 1992 c 67 § 2.]

Findings—Intent—1996 c 12: "The legislature finds that experimental delegation of portions of the well drilling administration and enforcement authority of the department of ecology to willing and able local governments has been successful to date. Delegation has provided a more effective and efficient means of assuring proper well construction and decommissioning and protection of public health and safety than could be accomplished by the department of ecology acting alone. The legislature further finds that without legislative action, the authority for such delegation will expire June 30, 1996. Therefore, it is the intent of the legislature to extend the authority for delegation an additional four years." [1996 c 12 § 1.]

Legislative findings—1992 c 67: "The legislature finds that the public health and safety and the environment would be enhanced by permitting qualified local governmental agencies to administer and enforce portions of the water well construction program." [1992 c 67 § 1.]

18.104.048 Prior notice of well construction, reconstruction, or decommissioning. A property owner or the owner's agent shall notify the department of his or her intent to begin well construction, reconstruction, or decommissioning procedures at least seventy-two hours in advance of commencing work. The notice shall be submitted on forms provided by the department and shall be accompanied by the fees required by RCW 18.104.055. The notice shall contain the name of the owner of the well, location of the well, proposed use, approximate start date, well contractor's or operator's name and license number, company's name, and other pertinent information as prescribed by rule of the department. Rules of the department shall also provide for prior telephonic notification by well contractors or operators in exceptional situations. The department shall issue a receipt indicat-

ing that the notice required by this section has been filed and the fees required by RCW 18.104.055 have been paid not later than three business days after the department has received the notice and fees. [1993 c 387 § 6; 1987 c 394 § 3.]

18.104.049 Modification of construction standards. The department by rule shall adopt procedures to permit a well operator to modify construction standards to meet unforeseen circumstances encountered during the construction of a well. The procedures shall be developed in consultation with the technical advisory group established in RCW 18.104.190. [1993 c 387 § 7.]

18.104.050 Reports of well construction or decommissioning. (1) Any person authorized by this chapter to construct or decommission a well shall furnish a well report to the director within thirty days after the completion of the construction or decommissioning of a well. The director, by rule, shall prescribe the form of the report and the information to be contained therein.

(2) In the case of a dewatering well project:

(a) A single well construction report may be submitted for all similar dewatering wells constructed with no significant change in geologic formation; and

(b) A single well decommissioning report may be submitted for all similar dewatering wells decommissioned that have no significant change in geologic formation. [2005 c 84 § 3; 1993 c 387 § 8; 1971 ex.s. c 212 § 5.]

18.104.055 Fees. (1) A fee is hereby imposed on each well constructed in this state on or after July 1, 2005.

(2)(a) The fee for one water well, other than a dewatering well, with a minimum top casing diameter of less than twelve inches is two hundred dollars. This fee does not apply to a ground source heat pump boring or a grounding well.

(b) The fee for one water well, other than a dewatering well, with a minimum top casing diameter of twelve inches or greater is three hundred dollars.

(c) The fee for a resource protection well, except for an environmental investigation well, a ground source heat pump boring, or a grounding well, is forty dollars for each well.

(d) The fee for an environmental investigation well in which groundwater is sampled or measured is forty dollars for construction of up to four environmental investigation wells per project, ten dollars for each additional environmental investigation well constructed on a project with more than four wells. There is no fee for soil or vapor sampling purposes.

(e) The fee for a ground source heat pump boring or a grounding well is forty dollars for construction of up to four ground source heat pump borings or grounding wells per project and ten dollars for each additional ground source heat pump boring or grounding well constructed on a project with more than four wells.

(f) The combined fee for construction and decommissioning of a dewatering well system shall be forty dollars for each two hundred horizontal lineal feet, or portion thereof, of the dewatering well system.

(g) The fee to decommission a water well is fifty dollars.

(h) The fee to decommission a resource protection well, except for an environmental investigation well, is twenty dollars. There is no fee to decommission an environmental investigation well or a geotechnical soil boring.

(i) The fee to decommission a ground source heat pump boring or a grounding well is twenty dollars.

(3) The fees imposed by this section shall be paid at the time the notice of well construction is submitted to the department as provided by RCW 18.104.048. The department by rule may adopt procedures to permit the fees required for resource protection wells to be paid after the number of wells actually constructed has been determined. The department shall refund the amount of any fee collected for wells, borings, probes, or excavations as long as construction has not started and the department has received a refund request within one hundred eighty days from the time the department received the fee. The refund request shall be made on a form provided by the department. [2005 c 84 § 4; 2002 c 48 § 2; 1993 c 387 § 9.]

18.104.060 Violations—Cease and desist orders.

Notwithstanding and in addition to any other powers granted to the department, whenever it appears to the director, or to an assistant authorized by the director to issue regulatory orders under this section, that a person is violating or is about to violate any of the provisions of this chapter, the director, or the director's authorized assistant, may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to the addressee only with return receipt requested and acknowledged by him or her. The order shall specify the provision of this chapter, and if applicable, the rule adopted pursuant to this chapter alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. An order issued under this chapter shall become effective immediately upon receipt by the person to whom the order is directed, and shall become final unless review thereof is requested as provided in this chapter. [1993 c 387 § 10; 1971 ex.s. c 212 § 6.]

18.104.065 Remedies for noncomplying wells.

(1) The department may order a well contractor or well operator to repair, alter, or decommission a well if the department demonstrates that the construction of the well did not meet the standards for well construction in effect at the time construction of the well was completed.

(2) The department may not issue an order pursuant to this section:

(a) For wells for which construction has been substantially completed before July 1, 1993, more than six years after construction has been substantially completed; or

(b) For wells for which construction has been substantially completed on or after July 1, 1993, more than three years after construction has been substantially completed.

For purposes of this subsection, "construction has been substantially completed" has the same meaning as "substantial completion of construction" in RCW 4.16.310.

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(3) Subsection (2) of this section shall only apply to a well for which the notice of construction required by RCW 18.104.048 and the report required by RCW 18.104.050 have been filed with the department. [1993 c 387 § 11.]

18.104.070 Water well operator's license. A person shall be qualified to receive a water well operator's license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee determined by rule adopted pursuant to this chapter; and

(2) Has the field experience and educational training required by rule adopted by the department pursuant to this chapter; and

(3) Has passed a written examination as provided for in RCW 18.104.080; and

(4) Has passed an on-site examination by the department if the person's qualifying field experience under subsection (2) of this section is from another state. The department may waive the on-site examination. [1993 c 387 § 12; 1987 c 394 § 2; 1971 ex.s. c 212 § 7.]

18.104.080 Examinations—Subjects—Times and places. The examination for a license issued pursuant to this chapter shall be prepared to test knowledge and understanding of at least the following subjects:

(1) Washington groundwater laws as they relate to well construction;

(2) Sanitary standards for well drilling and construction of wells;

(3) Types of well construction;

(4) Drilling tools and equipment;

(5) Underground geology as it relates to well construction; and

(6) Rules of the department and the department of health relating to well construction.

Examinations shall be held at such times and places as may be determined by the department but not later than thirty days after an applicant has filed a completed application with the department. The department shall make a determination of the applicant's qualifications for a license within ten days after the examination. [1993 c 387 § 16; 1991 c 3 § 250; 1971 ex.s. c 212 § 8.]

18.104.093 Water well construction operator's training license. The department may issue a water well construction operator's training license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in RCW 9A.72.085, verifying that the applicant

has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a water well construction operator's training license may operate a drilling rig without the direct supervision of a licensed operator if a licensed operator is available by radio, telephone, or other means of communication. [1993 c 387 § 13.]

18.104.095 Resource protection well operator's license. A person shall be qualified to receive a resource protection well operator's license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080. This requirement shall not apply to a person who passed the written examination to obtain a resource protection well construction operator's training license; and

(4) Has passed an on-site examination by the department if the person's qualifying field experience is from another state. The department may waive the on-site examination.

A person with a license issued pursuant to this chapter before July 1, 1993, may obtain a resource protection well construction operator's license by paying the application fee determined by rule adopted by the department pursuant to this chapter and submitting evidence required by the department to demonstrate that the person has the required experience to construct resource protection wells. [1993 c 387 § 14.]

18.104.097 Resource protection well operator's training license. The department may issue a resource protection well operator's training license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in RCW 9A.72.085, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a resource protection well construction operator's training license may operate a drilling rig without direct supervision of a licensed operator if a licensed operator is accessible by radio, telephone, or other means of communication. [1993 c 387 § 15.]

18.104.100 Licenses—Duration—Renewal—Failure to renew, procedure—Suspension—Conditional licenses.

[Title 18 RCW—page 292]

(1) Licenses issued pursuant to this chapter shall be renewed every two years. A license shall be renewed upon payment of a renewal fee and completion of continuing education requirements and receipt of a completed license renewal application. If a licensee fails to submit an application for renewal, the renewal fee, and proof of completion of the required continuing education, the license shall be suspended at the end of its effective term. The licensee is not allowed to perform work authorized by their license during the time that it is suspended. The licensee is allowed thirty days to submit an application for renewal, the renewal fee, and proof of completion of the required continuing education for the renewal period. Continuing education obtained during the thirty-day suspension period may be applied only to the next renewal period. If a licensee fails to submit an application for renewal, the renewal fee, and proof of completion of the required continuing education by the end of the thirty-day suspension period, the license expires. The department shall adopt rules, in consultation with the technical advisory group created under RCW 18.104.190, that allow for an extension of the thirty-day suspension period for certain situations that are beyond the control of the licensee. The rules must also allow for a retirement or inactive license.

(2) A person whose license has expired must apply for a new license as provided in this chapter. The department may waive the requirement for a written examination and on-site testing for a person whose license has expired.

(3) The department may refuse to renew a license if the licensee has not complied with an order issued by the department or has not paid a penalty imposed in accordance with this chapter, unless the order or penalty is under appeal.

(4) The department may issue a conditional license to enable a former licensee to comply with an order to correct problems with a well. [2005 c 84 § 5; 1993 c 387 § 17; 1971 ex.s. c 212 § 10.]

18.104.110 Actions against licenses—Grounds—Duration. (1) In cases other than those relating to the failure of a licensee to renew a license, the director may suspend or revoke a license issued pursuant to this chapter for any of the following reasons:

(a) For fraud or deception in obtaining the license;

(b) For fraud or deception in reporting under RCW 18.104.050;

(c) For violating the provisions of this chapter, or of any lawful rule or regulation of the department or the department of health.

(2) The director shall immediately suspend any license issued under this chapter if the holder of the license has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(3) No license shall be suspended for more than six months, except that a suspension under RCW 74.20A.320 shall continue until the department receives a release issued

by the department of social and health services stating that the person is in compliance with the order.

(4) No person whose license is revoked shall be eligible to apply for a license for one year from the effective date of the final order of revocation. [1997 c 58 § 828; 1993 c 387 § 18; 1991 c 3 § 251; 1971 ex.s. c 212 § 11.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.104.115 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 16.]

Additional notes found at www.leg.wa.gov

18.104.120 Complaints against a well contractor, operator, or trainee—Department's response—Review. Any person who can demonstrate being materially harmed by the actions or inactions of a well contractor, operator, or trainee, or has knowledge of illegal activities engaged in by a well contractor, operator, or trainee may submit a complaint against the well contractor, operator, or trainee to the department of ecology. The complaint shall be in writing, signed by the complainant, and specify the grievances against the licensee. The department may investigate the complaint to establish the validity of the complaint. In the event evidence shows a violation of this chapter or rules adopted under this chapter, the department may respond to the complaint by issuance of an order appropriate to the violation. Review of the order shall be subject to the hearings procedures set forth in RCW 18.104.130. [2005 c 84 § 7; 1993 c 387 § 19; 1983 c 93 § 1; 1971 ex.s. c 212 § 12.]

18.104.130 Appeals. Any person who feels aggrieved by an order of the department including the granting, denial, revocation, or suspension of a license issued by the department pursuant to this chapter shall be entitled to an appeal pursuant to RCW 43.21B.310. [1987 c 109 § 24; 1971 ex.s. c 212 § 13.]

(2016 Ed.)

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

18.104.150 Disposition of fees—Grants to local governments. (1) All fees paid under this chapter shall be credited by the state treasurer to the reclamation account established by chapter 89.16 RCW. Subject to legislative appropriation, the fees collected under this chapter shall be allocated and expended by the director for the administration of the well construction, well operators' licensing, and education programs.

(2) The department shall provide grants to local governing entities that have been delegated portions of the well construction program pursuant to RCW 18.104.043 to assist in supporting well inspectors hired by the local governing body. Grants provided to a local governing body shall not exceed the revenues generated from fees for the portion of the program delegated and from the area in which authority is delegated to the local governing body. [1993 c 387 § 20; 1971 ex.s. c 212 § 15.]

18.104.155 Civil penalties—Amount and disposition. (1) Except as provided in RCW 43.05.060 through 43.05.080 and 43.03.150, the department of ecology may assess a civil penalty for a violation of this chapter or rules or orders of the department adopted or issued pursuant to it.

(2) There shall be three categories of violations: Minor, serious, and major.

(a) A minor violation is a violation that does not seriously threaten public health, safety, and the environment. Minor violations include, but are not limited to:

(i) Failure to submit completed start cards and well reports within the required time;

(ii) Failure to submit variance requests before construction;

(iii) Failure to submit well construction fees;

(iv) Failure to place a well identification tag on a new well; and

(v) Minor or reparable construction problems.

(b) A serious violation is a violation that poses a critical or serious threat to public health, safety, and the environment. Serious violations include, but are not limited to:

(i) Improper well construction;

(ii) Intentional and improper location or siting of a well;

(iii) Construction of a well without a required permit;

(iv) Violation of decommissioning requirements;

(v) Repeated minor violations; or

(vi) Construction of a well by a person whose license has expired or has been suspended for not more than ninety days.

(c) A major violation is the construction of a well by a person:

(i) Without a license; or

(ii) After the person's license has been suspended for more than ninety days or revoked.

(3)(a) The penalty for a minor violation shall be not less than one hundred dollars and not more than five hundred dollars. Before the imposition of a penalty for a minor violation, the department may issue an order of noncompliance to provide an opportunity for mitigation or compliance.

(b) The penalty for a serious violation shall be not less than five hundred dollars and not more than five thousand dollars.

(c) The penalty for a major violation shall be not less than five thousand dollars and not more than ten thousand dollars.

(4) In determining the appropriate penalty under subsection (3) of this section the department shall consider whether the person:

(a) Has demonstrated a general disregard for public health and safety through the number and magnitude of the violations;

(b) Has demonstrated a disregard for the well construction laws or rules in repeated or continuous violations; or

(c) Knew or reasonably should have known of circumstances that resulted in the violation.

(5) Penalties provided for in this section shall be imposed pursuant to RCW 43.21B.300. The department shall provide thirty days written notice of a violation as provided in RCW 43.21B.300(3).

(6) For informational purposes, a copy of the notice of violation, resulting from the improper construction of a well, that is sent to a water well contractor or water well construction operator, shall also be sent by the department to the well owner.

(7) Penalties collected by the department pursuant to this section shall be deposited in the reclamation account established by chapter 89.16 RCW. Subject to legislative appropriation, the penalties may be spent only for purposes related to the restoration and enhancement of groundwater resources in the state. [1995 c 403 § 628; 1993 c 387 § 21; 1987 c 394 § 1.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

18.104.160 Criminal penalties—Prosecutions. Any person who shall violate any provision of this chapter, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than two hundred fifty dollars, or imprisonment in a county jail for a term not to exceed thirty days, or both. Criminal prosecutions for violations of this chapter shall be prosecuted by the prosecuting attorney in the county in which the violation occurred. [1971 ex.s. c 212 § 16.]

18.104.170 Remedies cumulative. The remedies provided for in this chapter shall be cumulative and nothing herein shall alter, abridge or foreclose alternative actions at common law or in equity or under statutory law, civil or criminal. [1971 ex.s. c 212 § 17.]

18.104.180 Exemptions. No license under this chapter shall be required of:

(1) Any individual who personally constructs a well on land which is owned or leased by the individual or in which the individual has a beneficial interest as a contract purchaser and is used by the individual for farm or single-family residential use only. An individual who constructs a well without a license pursuant to this subsection shall comply with all other requirements of this chapter and rules adopted by the department, including but not limited to, well construction

standards, payment of well construction fees, and notification of well construction required by RCW 18.104.048. An individual without a license may construct not more than one well every two years pursuant to the provisions of this subsection.

(2) An individual who performs labor or services for a well contractor in connection with the construction of a well at the direction and under the supervision and control of a licensed operator who is present at the construction site.

(3) A person licensed under the provisions of chapter 18.08 or 18.43 RCW if in the performance of duties covered by those licenses. [1993 c 387 § 24; 1971 ex.s. c 212 § 18.]

18.104.190 Technical advisory group. (1) For the purpose of carrying out the provisions of this chapter, the director shall appoint a technical advisory group, chaired by the department. The technical advisory group shall have twelve members: Two members shall represent the department of ecology, six members shall represent resource protection well contractors or water well contractors, one member shall represent the department of health and be a person who regularly works on issues related to drinking water wells, one member shall represent local health departments and be a person who regularly works on issues related to drinking water wells, one member shall represent licensed professional engineers and be knowledgeable about the design and construction of wells, and one member shall be a licensed hydrogeologist knowledgeable about the design and construction of wells.

(2) The technical advisory group shall assist the department in the development and revision of rules; the preparation and revision of licensing examinations; the development of training criteria for inspectors, well contractors, and well operators; the establishment of continuing education providers; the development of evaluation procedures of all continuing education offerings; and the review of proposed changes to the minimum standards for construction and maintenance of wells by local governments for the purpose of achieving continuity with technology and state rules.

(3) The group shall meet at least twice each year to review rules and suggest any necessary changes.

(4) Each member of the group shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses while engaged in the business of the group as prescribed in RCW 43.03.050 and 43.03.060. [2005 c 84 § 8; 1993 c 387 § 25.]

18.104.200 Continuing education. (1) A person seeking a new license or to renew an existing license under this chapter must demonstrate a willingness to maintain a high level of professional competency by completing continuing education programs as required by the department by rule. The department shall not approve any continuing education program unless: (a) It is offered by an approved provider; (b) it is open to all persons licensed or pursuing a license under this chapter; and (c) the fees charged are reasonable for all persons desiring to attend the program.

(2) The department, in consultation with the technical advisory group created in RCW 18.104.190, shall adopt rules governing continuing education programs. At a minimum, the rules must establish: A method of approving providers of

continuing education; a criteria to evaluate the offerings, workshops, courses, classes, or programs; a criteria for assigning credits; and a criteria for reporting and verifying completion.

(3) The department shall support approved providers by providing, upon request and at the department's discretion, technical assistance and presenters for continuing education offerings.

(4) The department shall maintain a current list of all continuing education offerings by approved providers and ensure that the list is available to all licensees by request. The list must also be posted on the department's web site. [2005 c 84 § 6.]

18.104.900 Short title. This chapter shall be known and may be cited as the "Washington well construction act." [1993 c 387 § 26; 1971 ex.s. c 212 § 19.]

18.104.910 Effective date—1971 ex.s. c 212. This act shall take effect on July 1, 1971. [1971 ex.s. c 212 § 20.]

18.104.930 Effective date—1993 c 387. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 387 § 29.]

Chapter 18.106 RCW PLUMBERS

Sections

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18.106.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory board" means the state advisory board of plumbers.

(2) "Contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any work covered by the provisions of this chapter by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any work covered by the provisions of this chapter.

(3) "Department" means the department of labor and industries.

(4) "Director" means the director of department of labor and industries.

(5) "Journey level plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter.

(6) "Like-in-kind" means having similar characteristics such as plumbing size, type, and function, and being in the same location.

(7) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and medical vacuum systems.

(8) "Medical gas piping installer" means a journey level plumber who has been issued a medical gas piping installer endorsement.

(9) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building. Installation in a water system of water softening or water treatment equipment is not within the meaning of plumbing as used in this chapter.

(10) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to:

(a) Installation, maintenance, and repair of the plumbing of single-family dwellings, duplexes, and apartment buildings that do not exceed three stories;

(b) Maintenance and repair of backflow prevention assemblies; or

(c) A domestic water pumping system consisting of the installation, maintenance, and repair of the pressurization, treatment, and filtration components of a domestic water system consisting of: One or more pumps; pressure, storage, and other tanks; filtration and treatment equipment; if appropriate, a pitless adapter; along with valves, transducers, and other plumbing components that:

(i) Are used to acquire, treat, store, or move water suitable for either drinking or other domestic purposes, including irrigation, to: (A) A single-family dwelling, duplex, or other similar place of residence; (B) a public water system, as defined in RCW 70.119.020 and as limited under RCW 70.119.040; or (C) a farm owned and operated by a person whose primary residence is located within thirty miles of any part of the farm;

(ii) Are located within the interior space, including but not limited to an attic, basement, crawl space, or garage, of a residential structure, which space is separated from the living area of the residence by a lockable entrance and fixed walls, ceiling, or floor;

(iii) If located within the interior space of a residential structure, are connected to a plumbing distribution system supplied and installed into the interior space by either: (A) a person who, pursuant to RCW 18.106.070 or 18.106.090, possesses a valid temporary permit or certificate of competency as a journey level plumber, specialty plumber, or trainee, as defined in this chapter; or (B) a person exempt from the requirement to obtain a certified plumber to do such plumbing work under RCW 18.106.150. [2013 c 23 § 14; 2006 c 185 § 1; 2003 c 399 § 102; 2002 c 82 § 1; 2001 c 281 § 1; 1997 c 326 § 2; 1995 c 282 § 2; 1983 c 124 § 1; 1977 ex.s. c 149 § 1; 1975 1st ex.s. c 71 § 1; 1973 1st ex.s. c 175 § 1.]

Additional notes found at www.leg.wa.gov

18.106.020 Certificate or permit required—Photo identification—Written warning, penalty—Trainee supervision required—Medical gas piping installer endorsement—Penalty—Notice of infraction. (1) No person may engage in or offer to engage in the trade of plumbing without having a journey level certificate, specialty certificate, temporary permit, or trainee certificate and photo identification in his or her possession. The department may establish by rule a requirement that the person also wear and visibly display his or her certificate or permit. A trainee must be supervised by a person who has a journey level certificate, specialty certificate, or temporary permit, as specified in RCW 18.106.070. No contractor may employ a person to engage in or offer to engage in the trade of plumbing unless the person employed has a journey level certificate, specialty certificate, temporary permit, or trainee certificate. This section does not apply to a contractor who is contracting for work on his or her own residence. Until July 1, 2007, the department shall issue a written warning to any specialty plumber defined by RCW 18.106.010(10)(c) not having a valid plumber certification. The warning will state that the individual must apply for a plumber training certificate or be qualified for and apply for plumber certification under the requirements in RCW 18.106.040 within thirty calendar days of the warning. Only one warning will be issued to any individual. If the individual fails to comply with this section, the department shall issue a penalty or penalties as authorized by this chapter.

(2) No person may engage in or offer to engage in medical gas piping installation without having a certificate of competency as a journey level plumber and a medical gas piping installer endorsement and photo identification in his or her possession. The department may establish by rule a requirement that the person also wear and visibly display his or her endorsement. A trainee may engage in medical gas piping installation if he or she has a training certificate and is supervised by a person with a medical gas piping installer endorsement. No contractor may employ a person to engage in or offer to engage in medical gas piping installation unless the person employed has a certificate of competency as a

journey level plumber and a medical gas piping installer endorsement.

(3) No contractor may advertise, offer to do work, submit a bid, or perform any work under this chapter without being registered as a contractor under chapter 18.27 RCW.

(4) Violation of this section is an infraction. Each day in which a person engages in the trade of plumbing in violation of this section or employs a person in violation of this section is a separate infraction. Each worksite at which a person engages in the trade of plumbing in violation of this section or at which a person is employed in violation of this section is a separate infraction.

(5) Notices of infractions for violations of this section may be issued to:

(a) The person engaging in or offering to engage in the trade of plumbing in violation of this section;

(b) The contractor in violation of this section; and

(c) The contractor's employee who authorized the work assignment of the person employed in violation of this section. [2013 c 23 § 15; 2009 c 36 § 2; 2006 c 185 § 11; 2002 c 82 § 2; 1997 c 326 § 3; 1994 c 174 § 2; 1983 c 124 § 4; 1977 ex.s. c 149 § 2; 1975 1st ex.s. c 71 § 2; 1973 1st ex.s. c 175 § 2.]

Finding—Intent—2009 c 36: "(1) The legislature finds that dishonest construction contractors sometimes hire workers without proper licenses, certificates, permits, and endorsements to do electrical, plumbing, and conveyance work. This practice gives these contractors an unfair competitive advantage and leaves workers and customers vulnerable.

(2) The legislature intends that electricians, plumbers, and conveyance workers be required to have their licenses, certificates, permits, and endorsements and photo identification in their possession while working. The legislature further intends that the department of labor and industries be authorized to require electricians, plumbers, and conveyance workers to wear and visibly display their licenses, certificates, permits, and endorsements while working, and to include photo identification on these documents. These requirements will help address the problems of the underground economy in the construction industry, level the playing field for honest contractors, and protect workers and consumers." [2009 c 36 § 1.]

Additional notes found at www.leg.wa.gov

18.106.030 Application for certificate of competency—Medical gas piping installer endorsement—Evidence required. Any person desiring to be issued a certificate of competency as provided in this chapter shall deliver evidence in a form prescribed by the department affirming that said person has had sufficient experience in as well as demonstrated general competency in the trade of plumbing or specialty plumbing so as to qualify him or her to make an application for a certificate of competency as a journey level plumber or specialty plumber. Completion of a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the workforce training and education coordinating board shall constitute sufficient evidence of experience and competency to enable such person to make application for a certificate of competency.

Any person desiring to be issued a medical gas piping installer endorsement shall deliver evidence in a form prescribed by the department affirming that the person has met the requirements established by the department for a medical gas piping installer endorsement.

In addition to supplying the evidence as prescribed in this section, each applicant for a certificate of competency shall submit an application for such certificate on such form

and in such manner as shall be prescribed by the director of the department. [2013 c 23 § 16; 2011 c 336 § 504; 1997 c 326 § 4; 1977 ex.s. c 149 § 3; 1973 1st ex.s. c 175 § 3.]

Additional notes found at www.leg.wa.gov

18.106.040 Examinations—Eligibility requirements—Determination. (1) Upon receipt of the application and evidence set forth in RCW 18.106.030, the director shall review the same and make a determination as to whether the applicant is eligible to take an examination for the certificate of competency. To be eligible to take the examination:

(a) Each applicant for a journey level plumber's certificate of competency shall furnish written evidence that he or she has completed a course of study in the plumbing trade in the armed services of the United States or at a school licensed by the workforce training and education coordinating board, or has had four or more years of experience under the direct supervision of a licensed journey level plumber.

(b) Each applicant for a specialty plumber's certificate of competency under RCW 18.106.010(10)(a) shall furnish written evidence that he or she has completed a course of study in the plumbing trade in the armed services of the United States or at a school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, or that he or she has had at least three years practical experience in the specialty.

(c) Each applicant for a specialty plumber's certificate of competency under RCW 18.106.010(10) (b) or (c) shall furnish written evidence that he or she is eligible to take the examination. These eligibility requirements for the specialty plumbers defined by RCW 18.106.010(10)(c) shall be one year of practical experience working on pumping systems not exceeding one hundred gallons per minute, and two years of practical experience working on pumping systems exceeding one hundred gallons per minute, or equivalent as determined by rule by the department in consultation with the advisory board, and that experience may be obtained at the same time the individual is meeting the experience required by RCW 19.28.191. The eligibility requirements for other specialty plumbers shall be established by rule by the director pursuant to subsection (2)(b) of this section.

(2)(a) The director shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110.

(b) The director shall establish reasonable criteria by rule for determining an applicant's eligibility to take an examination for the certificate of competency for specialty plumbers under subsection (1)(c) of this section. In establishing the criteria, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110. These rules must take effect by December 31, 2006.

(3) Upon determination that the applicant is eligible to take the examination, the director shall so notify the applicant, indicating the time and place for taking the same.

(4) No other requirement for eligibility may be imposed. [2013 c 23 § 17; 2006 c 185 § 2; 2001 c 281 § 2; 1977 ex.s. c 149 § 4; 1975 1st ex.s. c 71 § 3; 1973 1st ex.s. c 175 § 4.]

(2016 Ed.)

18.106.050 Examinations—Scope—Results—Retaking. (1) The department, with the advice of the advisory board, shall prepare a written examination to be administered to applicants for certificates of competency for journey level plumber and specialty plumber. The examination shall be constructed to determine:

(a) Whether the applicant possesses varied general knowledge of the technical information and practical procedures that are identified with the trade of journey level plumber or specialty plumber; and

(b) Whether the applicant is familiar with the applicable plumbing codes and the administrative rules of the department pertaining to plumbing and plumbers.

(2) The department, with the consent of the advisory board, may enter into a contract with a nationally recognized testing agency to develop, administer, and score any examinations required by this chapter. All applicants shall, before taking an examination, pay the required examination fee. The department shall set the examination fee by contract with a nationally recognized testing agency. The fee shall cover but not exceed the costs of preparing and administering the examination and the materials necessary to conduct the practical elements of the examination. The department shall approve training courses and set the fees for training courses for examinations provided by this chapter.

(3) An examination to determine the competency of an applicant for a domestic water pumping system specialty plumbing certificate as defined by RCW 18.106.010(10)(c) must be established by the department in consultation with the advisory board by December 31, 2006. The department may include an examination for appropriate electrical safety and technical requirements as required by RCW 19.28.191 with the examination required by this section. The department, in consultation with the advisory board, may accept the certification by a professional or trade association or other acceptable entity as meeting the examination requirement of this section. Individuals who can provide evidence to the department prior to January 1, 2007, that they have been employed in the pump and irrigation business as defined by RCW 18.106.010(10)(c) for not less than four thousand hours in the most recent four calendar years shall be issued the appropriate certificate by the department upon receiving such documentation and applicable fees. The department shall establish a single document for those who have received both the plumbing specialty certification defined by this subsection and have also met the certification requirements for a pump and irrigation or domestic pump specialty electrician, showing that the individual has received both certifications.

(4) The department shall certify the results of the examinations provided by this chapter, and shall notify the applicant in writing whether he or she has passed or failed. Any applicant who has failed the examination may retake the examination, upon the terms and after a period of time that the director shall set by rule. The director may not limit the number of times that a person may take the examination. [2013 c 23 § 18; 2006 c 185 § 3; 1997 c 326 § 5; 1983 c 124 § 2; 1977 ex.s. c 149 § 5; 1973 1st ex.s. c 175 § 5.]

Additional notes found at www.leg.wa.gov

18.106.070 Certificates of competency, installer endorsement—Issuance—Renewal—Rights of holder—

Training certificates—Supervision—Training, certified plumber. (1) The department shall issue a certificate of competency to all applicants who have passed the examination and have paid the fee for the certificate. The certificate may include a photograph of the holder. The certificate shall bear the date of issuance, and shall expire on the birthdate of the holder immediately following the date of issuance. The certificate shall be renewable every other year, upon application, on or before the birthdate of the holder, except for specialty plumbers defined by RCW 18.106.010(10)(c) who also have an electrical certification issued jointly as provided by RCW 18.106.050(3) in which case their certificate shall be renewable every three years on or before the birthdate of the holder. The department shall renew a certificate of competency if the applicant: (a) Pays the renewal fee assessed by the department; and (b) during the past two years has completed sixteen hours of continuing education approved by the department with the advice of the advisory board, including four hours related to electrical safety. For holders of the specialty plumber certificate under RCW 18.106.010(10)(c), the continuing education may comprise both electrical and plumbing education with a minimum of twelve of the required twenty-four hours of continuing education in plumbing. If a person fails to renew the certificate by the renewal date, he or she must pay a doubled fee. If the person does not renew the certificate within ninety days of the renewal date, he or she must retake the examination and pay the examination fee.

The journey level plumber and specialty plumber certificates of competency, the medical gas piping installer endorsement, and the temporary permit provided for in this chapter grant the holder the right to engage in the work of plumbing as a journey level plumber, specialty plumber, or medical gas piping installer, in accordance with their provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in the work. This section does not preclude employees from adhering to a union security clause in any employment where such a requirement exists.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the plumbing construction trade or who is learning the plumbing construction trade may work in the plumbing construction trade if supervised by a certified journey level plumber or a certified specialty plumber in that plumber's specialty. All apprentices and individuals learning the plumbing construction trade shall obtain a plumbing training certificate from the department. The certificate shall authorize the holder to learn the plumbing construction trade while under the direct supervision of a journey level plumber or a specialty plumber working in his or her specialty. The certificate may include a photograph of the holder. The holder of the plumbing training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the plumbing construction industry for the previous year and the number of hours worked for each employer. An annual fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but

not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter.

(3) Any person who has been issued a plumbing training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a journey level plumber or an appropriate specialty plumber who has an applicable certificate of competency issued under this chapter. Either a journey level plumber or an appropriate specialty plumber shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. The ratio of noncertified individuals to certified journey level or specialty plumbers working on a job site shall be: (a) Not more than two noncertified plumbers working on any one job site for every certified specialty plumber or journey level plumber working as a specialty plumber; and (b) not more than one noncertified plumber working on any one job site for every certified journey level plumber working as a journey level plumber.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the plumbing construction trade in a school approved by the workforce training and education coordinating board, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(4) An individual who has a current training certificate and who has successfully completed or is currently enrolled in a medical gas piping installer training course approved by the department may work on medical gas piping systems if the individual is under the direct supervision of a certified medical gas piping installer who holds a medical gas piping installer endorsement one hundred percent of a working day on a one-to-one ratio.

(5) The training to become a certified plumber must include not less than sixteen hours of classroom training established by the director with the advice of the advisory board. The classroom training must include, but not be limited to, electrical wiring safety, grounding, bonding, and other related items plumbers need to know to work under RCW 19.28.091.

(6) All persons who are certified plumbers before January 1, 2003, are deemed to have received the classroom training required in subsection (5) of this section. [2013 c 23 § 19; 2009 c 36 § 3; 2006 c 185 § 10; 2003 c 399 § 801; 1997 c 326 § 6; 1985 c 465 § 1; 1983 c 124 § 3; 1977 ex.s. c 149 § 7; 1973 1st ex.s. c 175 § 7.]

Finding—Intent—2009 c 36: See note following RCW 18.106.020.

Additional notes found at www.leg.wa.gov

18.106.075 Medical gas piping installer endorsement.

The department shall adopt requirements that qualify a journey level plumber to be issued a medical gas piping installer endorsement. [2013 c 23 § 20; 1997 c 326 § 1.]

Additional notes found at www.leg.wa.gov

18.106.080 Persons engaged in plumbing business or trade on effective date. No examination shall be required of any applicant for a certificate of competency who, on July 16,

1973, was engaged in a bona fide business or trade of plumbing, or on said date held a valid journey level plumber's license issued by a political subdivision of the state of Washington and whose license is valid at the time of making his or her application for said certificate. Applicants qualifying under this section shall be issued a certificate by the department upon making an application as provided in RCW 18.106.030 and paying the fee required under RCW 18.106.050: PROVIDED, That no applicant under this section shall be required to furnish such evidence as required by RCW 18.106.030. [2013 c 23 § 21; 2011 c 336 § 505; 1973 1st ex.s. c 175 § 8.]

18.106.090 Temporary permits. The department is authorized to grant and issue temporary permits in lieu of certificates of competency whenever a plumber coming into the state of Washington from another state requests the department for a temporary permit to engage in the trade of plumbing as a journey level plumber or as a specialty plumber during the period of time between filing of an application for a certificate as provided in RCW 18.106.030 as now or hereafter amended and taking the examination provided for in RCW 18.106.050. The temporary permit may include a photograph of the plumber. No temporary permit shall be issued to:

- (1) Any person who has failed to pass the examination for a certificate of competency;
- (2) Any applicant under this section who has not furnished the department with such evidence required under RCW 18.106.030;
- (3) Any apprentice plumber. [2013 c 23 § 22; 2009 c 36 § 4; 1985 c 7 § 78; 1977 ex.s. c 149 § 8; 1973 1st ex.s. c 175 § 9.]

Finding—Intent—2009 c 36: See note following RCW 18.106.020.

18.106.100 Revocation of certificate of competency—Grounds—Procedure. (1) The department may revoke or suspend a certificate of competency for any of the following reasons:

- (a) The certificate was obtained through error or fraud;
- (b) The certificate holder is judged to be incompetent to carry on the trade of plumbing as a journey level plumber or specialty plumber;
- (c) The certificate holder has violated any provision of this chapter or any rule adopted under this chapter.

(2) Before a certificate of competency is revoked or suspended, the department shall send written notice using a method by which the mailing can be tracked or the delivery can be confirmed to the certificate holder's last known address. The notice must list the allegations against the certificate holder and give him or her the opportunity to request a hearing before the advisory board. At the hearing, the department and the certificate holder have opportunity to produce witnesses and give testimony. The hearing must be conducted in accordance with chapter 34.05 RCW. The board shall render its decision based upon the testimony and evidence presented and shall notify the parties immediately upon reaching its decision. A majority of the board is necessary to render a decision.

(3) The department may deny renewal of a certificate of competency issued under this chapter if the applicant owes

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outstanding penalties for a final judgment under this chapter. The department shall notify the applicant of the denial using a method by which the mailing can be tracked or the delivery can be confirmed to the address on the application. The applicant may appeal the denial within twenty days by filing a notice of appeal with the department accompanied by a certified check for two hundred dollars which shall be returned to the applicant if the decision of the department is not upheld by the hearings officer. The office of administrative hearings shall conduct the hearing under chapter 34.05 RCW. If the hearings officer sustains the decision of the department, the two hundred dollars must be applied to the cost of the hearing. [2013 c 23 § 23; 2011 c 301 § 4; 1996 c 147 § 3; 1977 ex.s. c 149 § 9; 1973 1st ex.s. c 175 § 10.]

18.106.110 Advisory board of plumbers. (1) There is created a state advisory board of plumbers, to be composed of seven members appointed by the director. Two members shall be journey level plumbers, one member shall be a specialty plumber, three members shall be persons conducting a plumbing business, at least one of which shall be primarily engaged in a specialty plumbing business, and one member from the general public who is familiar with the business and trade of plumbing.

(2) The term of one journey level plumber expires July 1, 1995; the term of the second journey level plumber expires July 1, 2000; the term of the specialty plumber expires July 1, 2008; the term of one person conducting a plumbing business expires July 1, 1996; the term of the second person conducting a plumbing business expires July 1, 2000; the term of the third person conducting a plumbing business expires July 1, 2007; and the term of the public member expires July 1, 1997. Thereafter, upon the expiration of said terms, the director shall appoint a new member to serve for a period of three years. However, to ensure that the board can continue to act, a member whose term expires shall continue to serve until his or her replacement is appointed. In the case of any vacancy on the board for any reason, the director shall appoint a new member to serve out the term of the person whose position has become vacant.

(3) The advisory board shall carry out all the functions and duties enumerated in this chapter, as well as generally advise the department on all matters relative to this chapter.

(4) Each member of the advisory board shall receive travel expenses in accordance with the provisions of RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day in which such member is actually engaged in attendance upon the meetings of the advisory board. [2013 c 23 § 24; 2011 1st sp.s. c 21 § 21; 2006 c 185 § 4; 1997 c 307 § 1; 1995 c 95 § 1; 1975-'76 2nd ex.s. c 34 § 56; 1973 1st ex.s. c 175 § 11.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Additional notes found at www.leg.wa.gov

18.106.125 Fees. The department shall charge fees for issuance, renewal, and reinstatement of all certificates and permits and for examinations required by this chapter. The department shall set the fees by rule.

The fees shall cover the full cost of issuing the certificates and permits, devising and administering the examina-

tions, and administering and enforcing this chapter. The costs shall include travel, per diem, and administrative support costs. [1983 c 124 § 17.]

18.106.130 Plumbing certificate fund. All moneys received from certificates, permits, or other sources, shall be paid to the state treasurer as ex officio custodian thereof and by him or her placed in a special fund designated as the "plumbing certificate fund." He or she shall pay out upon vouchers duly and regularly issued therefor and approved by the director. The treasurer shall keep an accurate record of payments into said fund, and of all disbursement therefrom. Said fund shall be charged with its pro rata share of the cost of administering said fund. [2011 c 336 § 506; 1973 1st ex.s. c 175 § 13.]

18.106.140 Powers and duties of director. The director may promulgate rules, make specific decisions, orders, and rulings, including therein demands and findings, and take other necessary action for the implementation and enforcement of his or her duties under this chapter: PROVIDED, That in the administration of this chapter the director shall not enter any controversy arising over work assignments with respect to the trades involved in the construction industry. [2011 c 336 § 507; 1973 1st ex.s. c 175 § 14.]

18.106.150 Exemptions. (1) Nothing in this chapter shall be construed to require that a person obtain a license or a certified plumber in order to do plumbing work at his or her residence or farm or place of business or on other property owned by him or her.

(2) A current certificate of competency or apprentice permit is not required for:

(a) Persons performing plumbing work on a farm; or

(b) Certified journey level electricians, certified residential specialty electricians, or electrical trainees working for an electrical contractor and performing exempt work under RCW 18.27.090(18).

(3) Nothing in this chapter shall be intended to derogate from or dispense with the requirements of any valid plumbing code enacted by a political subdivision of the state, except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the trade of plumbing.

(4) This chapter shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees.

(5) Nothing in this chapter shall be construed to apply to any farm, business, industrial plant, or corporation doing plumbing work on premises it owns or operates.

(6) Nothing in this chapter shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative, or other person when none of the individuals doing such plumbing hold themselves out as engaged in the trade or business of plumbing. [2013 c 23 § 25; 2003 c 399 § 402; 1973 1st ex.s. c 175 § 15.]

Additional notes found at www.leg.wa.gov

18.106.155 Reciprocity. The director may, upon payment of the appropriate fees, grant a certificate of compe-

tency without examination to any applicant who is a registered journey level plumber or specialty plumber in any other state whose requirements for registration are at least substantially equivalent to the requirements of this state, and which extends the same privileges of reciprocity to journey level plumbers or specialty plumbers registered in this state. [2013 c 23 § 26; 1977 ex.s. c 149 § 11.]

18.106.170 Violations—Inspections—Production of credentials. An authorized representative of the department may investigate alleged or apparent violations of this chapter. An authorized representative of the department upon presentation of credentials may inspect sites at which a person is doing plumbing work for the purpose of determining whether that person has a certificate or permit issued by the department in accordance with this chapter. Upon request of the authorized representative of the department, a person doing plumbing work shall produce his or her certificate or permit and photo identification. [2009 c 36 § 5; 1983 c 124 § 6.]

Finding—Intent—2009 c 36: See note following RCW 18.106.020.

Additional notes found at www.leg.wa.gov

18.106.180 Notice of infraction—Issuance, service. (1) An authorized representative of the department may issue a notice of infraction as specified in RCW 18.106.020 if:

(a) A person who is doing plumbing work or who is offering to do plumbing work fails to produce evidence of:

(i) Having a certificate or permit issued by the department in accordance with this chapter, or being supervised by a person who has such a certificate or permit; and

(ii) Being registered as a contractor as required under chapter 18.27 RCW or this chapter, or being employed by a person who is registered as a contractor;

(b) A person who employs anyone, or offers or advertises to employ anyone, to do plumbing work fails to produce evidence of being registered as a contractor as required under chapter 18.27 RCW or this chapter; or

(c) A contractor violates RCW 18.106.320.

(2) A notice of infraction issued under this section shall be personally served on the person named in the notice by an authorized representative of the department or sent using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address provided to the department of the person named in the notice. [2011 c 301 § 5; 2002 c 82 § 3; 2000 c 171 § 27; 1996 c 147 § 4; 1994 c 174 § 3; 1983 c 124 § 7.]

Additional notes found at www.leg.wa.gov

18.106.190 Notice—Contents. The form of the notice of infraction issued under this chapter shall include the following:

(1) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(2) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(3) A statement of the specific infraction for which the notice was issued;

(4) A statement of the monetary penalty that has been established for the infraction;

(5) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(6) A statement that at any hearing to contest the determination of the state that the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the authorized representative of the department who issued and served the notice of infraction; and

(7) A statement that the person must respond to the notice of infraction in one of the ways provided in this chapter.

A statement that failure to timely select one of the options for responding to the notice of civil infraction after receiving a statement of the options provided in this chapter for responding to the notice of infraction and the procedures necessary to exercise these options is a misdemeanor and may be punished by a fine or imprisonment in jail. [2006 c 270 § 9; 1994 c 174 § 4; 1983 c 124 § 9.]

Additional notes found at www.leg.wa.gov

18.106.200 Notice—Hearing—Contest—Notice of appeal. A violation designated as an infraction under this chapter shall be heard and determined by an administrative law judge of the office of administrative hearings. If a party desires to contest the notice of infraction, the party shall file a notice of appeal with the department within twenty days of issuance of the infraction. The administrative law judge shall conduct hearings in these cases at locations in the county where the infraction is alleged to have occurred. [1996 c 147 § 5; 1994 c 174 § 5; 1983 c 124 § 8.]

Additional notes found at www.leg.wa.gov

18.106.210 Notice—Determination infraction committed. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction. [1983 c 124 § 10.]

Additional notes found at www.leg.wa.gov

18.106.220 Notice—Penalty payment—Filing answer of protest—Failure to respond or appear. (1) A person who receives a notice of infraction shall respond to the notice as provided in this section within fourteen days of the date the notice was served.

(2) If the person named in the notice of infraction does not wish to contest the notice of infraction, the person shall pay to the department, by check or money order, the amount of the penalty prescribed for the infraction. When a response which does not contest the determination is received by the department with the appropriate payment, the department shall make the appropriate entry in its records.

(3) If the person named in the notice of infraction wishes to contest the notice of infraction, the person shall respond by filing an answer of protest with the department specifying the grounds of protest.

(4) If any person issued a notice of infraction:

(a) Fails to respond to the notice of infraction as provided in subsection (2) of this section; or

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(b) Fails to appear at a hearing requested pursuant to subsection (3) of this section;

the administrative law judge shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and shall notify the department of the failure to respond to the notice of infraction or to appear at a requested hearing. [1994 c 174 § 6; 1983 c 124 § 11.]

Additional notes found at www.leg.wa.gov

18.106.230 Notice—Failure to respond—Misdemeanor. It is a misdemeanor for any person who has been personally served with a notice of infraction:

(1) To refuse to sign a written promise to respond to the notice; or

(2) To wilfully violate the written promise to respond to a notice of infraction as provided in this chapter, regardless of the ultimate disposition of the infraction. [1983 c 124 § 14.]

Additional notes found at www.leg.wa.gov

18.106.240 Representation by attorney—Department represented by attorney general. A person subject to proceedings under this chapter may appear or be represented by counsel. The department shall be represented by the attorney general in any proceeding under this chapter. [1983 c 124 § 12.]

Additional notes found at www.leg.wa.gov

18.106.250 Infraction—Cases—Administrative Procedure Act—Burden of proof—Order—Appeal. (1) The administrative law judge shall conduct notice of infraction cases under this chapter pursuant to chapter 34.05 RCW.

(2) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence. The notice of infraction shall be dismissed if the defendant establishes that, at the time the notice was issued:

(a) The defendant who was issued a notice of infraction authorized by RCW 18.106.020(5)(a) had a certificate or permit issued by the department in accordance with this chapter, was supervised by a person who has such a certificate or permit, or was exempt from this chapter under RCW 18.106.150; or

(b) For the defendant who was issued a notice of infraction authorized by RCW 18.106.020(5) (b) or (c), the person employed or supervised by the defendant has a certificate or permit issued by the department in accordance with this chapter, was supervised by a person who had such a certificate or permit, was exempt from this chapter under RCW 18.106.150, or was registered as a contractor under chapter 18.27 RCW.

(3) After consideration of the evidence and argument, the administrative law judge shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the record of the proceedings. If it has been established that the infraction was committed, the administrative law judge shall issue findings of fact and conclusions of law in its decision and order determining whether the infraction was committed.

(4) An appeal from the administrative law judge's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review

pursuant to Rule 2.3 of the Rules of Appellate Procedure. [2002 c 82 § 4; 2000 c 171 § 28; 1994 c 174 § 7; 1983 c 124 § 13.]

Additional notes found at www.leg.wa.gov

18.106.270 Infraction—Monetary penalties—Rules.

(1) A person found to have committed an infraction under RCW 18.106.020 shall be assessed a monetary penalty of two hundred fifty dollars for the first infraction, and not more than one thousand dollars for a second or subsequent infraction. The department shall set by rule a schedule of penalties for infractions imposed under this chapter.

(2) The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction for good cause shown.

(3) Monetary penalties collected under this chapter shall be deposited in the plumbing certificate fund. [1994 c 174 § 8; 1983 c 124 § 16.]

Additional notes found at www.leg.wa.gov

18.106.280 Pilot project—Enforcement of chapter—Reimbursement fee. The department of labor and industries may establish one pilot project in which the department will enter into an agreement with a city and the county within which the city is located regarding compliance inspections by the city or county to enforce this chapter. Under the terms of the agreement, the city and county shall be permitted to submit declarations of noncompliance to the department for the department's enforcement under RCW 18.106.180, with reimbursement to the city or county at an established fee. The pilot project shall be located in eastern Washington. [1995 c 294 § 1; 1994 c 174 § 1.]

Additional notes found at www.leg.wa.gov

18.106.290 Certificate or permit suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the certificate or permit of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate or permit shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification or permits during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 17.]

Additional notes found at www.leg.wa.gov

18.106.300 Certificate suspension—Noncompliance with support order—Reissuance. The department shall immediately suspend any certificate of competency issued under this chapter if the holder of the certificate has been certified pursuant to RCW 74.20A.320 by the department of

social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate of competency shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 829.]

*Reviser's note: 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.106.310 Backflow assembly testers—Specialty plumber's certificate of competency.

(1) Those actively certified by the department of health on or before July 1, 2001, as backflow assembly testers and registered as a contractor under chapter 18.27 RCW or employed by a registered contractor, may perform maintenance and repair of backflow prevention assemblies, without being a certified plumber under this chapter, until January 1, 2003. For the purposes of this section, "maintenance and repair" include cleaning and replacing internal parts of an assembly, but do not include installing or replacing backflow prevention assemblies.

(2) After January 1, 2003, backflow assembly testers exempted under subsection (1) of this section are required to meet the eligibility requirements for a specialty plumber's certificate of competency under RCW 18.106.040(1)(c). [2001 c 281 § 3.]

18.106.320 Contractor's duties—Records audit—Department's rule-making authority—Penalty. (1) Contractors shall accurately verify and attest to the trainee hours worked by plumbing trainees on behalf of the contractor and that all training hours were under the supervision of a certified plumber and within the proper ratio, and shall provide the supervising plumbers' names and certificate numbers. However, contractors are not required to identify which hours a trainee works with a specific certified plumber.

(2) The department may audit the records of a contractor that has verified the hours of experience submitted by a plumbing trainee to the department under RCW 18.106.030 in the following circumstances: Excessive hours were reported; hours were reported outside the normal course of the contractor's business; or for other similar circumstances in which the department demonstrates a likelihood of excessive or improper hours being reported. The department shall limit the audit to records necessary to verify hours. The department shall adopt rules implementing audit procedures. Information obtained from a contractor under the provisions of this section is confidential and is not open to public inspection under chapter 42.56 RCW.

(3) Violation of this section by a contractor is an infraction. [2005 c 274 § 229; 2002 c 82 § 5.]

Additional notes found at www.leg.wa.gov

**Chapter 18.108 RCW
 MASSAGE PRACTITIONERS**

Sections

- 18.108.005 Intent—Health care insurance not affected.
- 18.108.010 Definitions.
- 18.108.020 Board of massage—Generally.
- 18.108.025 Board powers and duties.
- 18.108.028 Transfer programs.
- 18.108.030 Licensure or certification required.
- 18.108.035 Unlicensed practice—Penalties.
- 18.108.040 Advertising—Use of title.
- 18.108.045 Display of license or certification.
- 18.108.050 Exemptions.
- 18.108.060 Applicant—License or certificate holder—Compliance with procedures, requirements, fees.
- 18.108.070 Qualifications for licensure or certification.
- 18.108.073 Massage practitioner examination.
- 18.108.074 Reflexology examination.
- 18.108.085 Powers and duties of secretary—Uniform Disciplinary Act—License or certificate revocation—Reinstatement.
- 18.108.095 Out-of-state massage practitioner applicants.
- 18.108.115 Persons licensed under prior law.
- 18.108.125 Inactive credential—Reinstatement.
- 18.108.131 Exemptions—Reflexology.
- 18.108.190 Inspection of premises by law enforcement personnel.
- 18.108.195 Inspection of premises by secretary.
- 18.108.210 Authority of local political subdivisions.
- 18.108.220 Federal classification.
- 18.108.230 Animal massage practitioner—Endorsement—Training requirements—Rules.
- 18.108.240 Chapter 277, Laws of 2002—Review/regulatory changes.
- 18.108.250 Intraoral massage—Endorsement.
- 18.108.902 Savings—1987 c 443.

Authority to regulate massage practitioners—Limitations: RCW 35.21.692, 35A.82.025, and 36.32.122.

18.108.005 Intent—Health care insurance not affected. (1) The legislature finds it necessary to license the practice of massage and massage therapy and certify persons practicing reflexology in order to protect the public health and safety. It is the legislature's intent that only individuals who meet and maintain minimum standards of competence and conduct may provide services to the public.

(2) This chapter shall not be construed to:

(a) Require individual or group policies or contracts of a health carrier to provide, or prohibit such policies or contracts from providing, benefits or coverage for services and supplies provided by a person licensed under this chapter; or

(b) Require that a health carrier contract with a person certified under this chapter. [2012 c 137 § 2; 1997 c 297 § 1; 1987 c 443 § 1.]

Finding—Purpose—2012 c 137: "The legislature finds that protecting the public health and safety from the harms of human trafficking has become more difficult and complex, with severe consequences for the victims and the public. The purpose of this legislation is to provide additional tools so that the regulatory agency has authority to make reasonable inspections of the premises in which services subject to this chapter are being provided in order to determine whether the services are being provided in compliance with this chapter and to support state investigations of human trafficking and other illicit activity." [2012 c 137 § 1.]

Rules—2012 c 137: "The department of health shall adopt any rules necessary to implement this act." [2012 c 137 § 21.]

Effective date—2012 c 137: "Sections 1 through 19 of this act take effect July 1, 2013." [2012 c 137 § 22.]

18.108.010 Definitions. (Effective until July 1, 2017.) In this chapter, unless the context otherwise requires, the following meanings shall apply:

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(1) "Animal massage practitioner" means an individual with a license to practice massage therapy in this state with additional training in animal therapy.

(2) "Board" means the Washington state board of massage.

(3) "Certified reflexologist" means an individual who is certified under this chapter.

(4) "Health carrier" means the same as the definition in RCW 48.43.005.

(5) "Intraoral massage" means the manipulation or pressure of soft tissue inside the mouth or oral cavity for therapeutic purposes.

(6) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.

(7) "Massage business" means the operation of a business where massages are given.

(8) "Massage practitioner" means an individual licensed under this chapter.

(9) "Reflexology" means a health care service that is limited to applying alternating pressure with thumb and finger techniques to reflexive areas of the lower one-third of the extremities, feet, hands, and outer ears based on reflex maps. Reflexology does not include the diagnosis of or treatment for specific diseases, or joint manipulations.

(10) "Reflexology business" means the operation of a business where reflexology services are provided.

(11) "Secretary" means the secretary of health or the secretary's designee. [2012 c 137 § 3; 2007 c 272 § 1; 2002 c 277 § 1; 2001 c 297 § 2; 1997 c 297 § 2; 1991 c 3 § 252; 1987 c 443 § 2; 1979 c 158 § 74; 1975 1st ex.s. c 280 § 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Findings—Intent—2001 c 297: "The legislature finds that massage therapists have contributed significantly to the welfare of humans. The legislature also finds that massage therapists can have a significant positive impact on the well-being of animals, especially in the equine industry.

It is the legislature's intent to have the Washington state board of massage adopt rules under their current authority providing for an endorsement for currently licensed massage practitioners to perform animal massage upon completion of certain training courses." [2001 c 297 § 1.]

18.108.010 Definitions. (Effective July 1, 2017.) In this chapter, unless the context otherwise requires, the following meanings shall apply:

(1) "Animal massage therapist" means an individual with a license to practice massage therapy in this state with additional training in animal therapy.

(2) "Board" means the Washington state board of massage.

(3) "Certified reflexologist" means an individual who is certified under this chapter.

(4) "Health carrier" means the same as the definition in RCW 48.43.005.

(5) "Intraoral massage" means the manipulation or pressure of soft tissue inside the mouth or oral cavity for therapeutic purposes.

(6) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.

(7) "Massage business" means the operation of a business where massages are given.

(8) "Massage therapist" means an individual licensed under this chapter.

(9) "Reflexology" means a health care service that is limited to applying alternating pressure with thumb and finger techniques to reflexive areas of the lower one-third of the extremities, feet, hands, and outer ears based on reflex maps. Reflexology does not include the diagnosis of or treatment for specific diseases, or joint manipulations.

(10) "Reflexology business" means the operation of a business where reflexology services are provided.

(11) "Secretary" means the secretary of health or the secretary's designee. [2016 c 41 § 1. Prior: 2012 c 137 § 3; 2007 c 272 § 1; 2002 c 277 § 1; 2001 c 297 § 2; 1997 c 297 § 2; 1991 c 3 § 252; 1987 c 443 § 2; 1979 c 158 § 74; 1975 1st ex.s. c 280 § 1.]

Effective date—2016 c 41: "This act takes effect July 1, 2017." [2016 c 41 § 28.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Findings—Intent—2001 c 297: "The legislature finds that massage therapists have contributed significantly to the welfare of humans. The legislature also finds that massage therapists can have a significant positive impact on the well-being of animals, especially in the equine industry.

It is the legislature's intent to have the Washington state board of massage adopt rules under their current authority providing for an endorsement for currently licensed massage practitioners to perform animal massage upon completion of certain training courses." [2001 c 297 § 1.]

18.108.020 Board of massage—Generally. The Washington state board of massage is hereby created. The board shall consist of four members who shall be appointed by the governor for a term of four years each. Members shall be residents of this state and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be licensed under this chapter and actively engaged in the practice of massage during their incumbency.

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 four years. The consumer member of the board shall be an individual who does not derive his or her livelihood by providing health care services or massage therapy and is not a licensed health professional. The consumer

member shall not be an employee of the state nor a present or former member of another licensing board.

In the event that a member cannot complete his or her 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 whether full or partial. The governor may remove any member of the board for neglect of duty, incompetence, or unprofessional or disorderly conduct as determined under chapter 18.130 RCW.

Each member of the board shall be compensated in accordance with RCW 43.03.240. 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.

The board may annually elect a chairperson to direct the meetings of the board. The board shall meet as called by the chairperson or the secretary. Three members of the board shall constitute a quorum of the board. [1991 c 3 § 253; 1987 c 443 § 9. Prior: 1984 c 287 § 53; 1984 c 279 § 56; 1975-'76 2nd ex.s. c 34 § 57; 1975 1st ex.s. c 280 § 2.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

18.108.025 Board powers and duties. (Effective until July 1, 2017.) (1) In addition to any other authority provided by law, the board of massage may:

(a) Adopt rules in accordance with chapter 34.05 RCW necessary to implement massage practitioner licensure under this chapter, subject to the approval of the secretary;

(b) Define, evaluate, approve, and designate those massage schools, massage programs, transfer programs, and massage apprenticeship programs including all current and proposed curriculum, faculty, and health, sanitation, and facility standards from which graduation will be accepted as proof of an applicant's eligibility to take the massage licensing examination;

(c) Review approved massage schools and programs periodically;

(d) Prepare, grade, administer, and supervise the grading and administration of, examinations for applicants for massage licensure;

(e) Establish and administer requirements for continuing education, which shall be a prerequisite to renewing a massage practitioner license under this chapter; and

(f) Determine which states have educational and licensing requirements for massage practitioners equivalent to those of this state.

(2) The board shall establish by rule the standards and procedures for approving courses of study in massage therapy and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating courses of study. The standards and procedures set shall apply equally to schools and training within the United States of America and those in foreign jurisdictions. [2016 c 53 § 2; 2012 c 137 § 4; 2008 c 25 § 1; 1991 c 3 § 254; 1987 c 443 § 10.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Effective date—2008 c 25: "This act takes effect July 1, 2009." [2008 c 25 § 3.]

18.108.025 Board powers and duties. (Effective July 1, 2017.) (1) In addition to any other authority provided by law, the board of massage may:

(a) Adopt rules in accordance with chapter 34.05 RCW necessary to implement massage therapist licensure under this chapter, subject to the approval of the secretary;

(b) Define, evaluate, approve, and designate those massage schools, massage programs, transfer programs, and massage apprenticeship programs including all current and proposed curriculum, faculty, and health, sanitation, and facility standards from which graduation will be accepted as proof of an applicant's eligibility to take the massage licensing examination;

(c) Review approved massage schools and programs periodically;

(d) Prepare, grade, administer, and supervise the grading and administration of, examinations for applicants for massage licensure;

(e) Establish and administer requirements for continuing education, which shall be a prerequisite to renewing a massage therapist license under this chapter; and

(f) Determine which states have educational and licensing requirements for massage therapists equivalent to those of this state.

(2) The board shall establish by rule the standards and procedures for approving courses of study in massage therapy and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating courses of study. The standards and procedures set shall apply equally to schools and training within the United States of America and those in foreign jurisdictions. [2016 c 53 § 2; 2016 c 41 § 2; 2012 c 137 § 4; 2008 c 25 § 1; 1991 c 3 § 254; 1987 c 443 § 10.]

Reviser's note: This section was amended by 2016 c 41 § 2 and by 2016 c 53 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Effective date—2008 c 25: "This act takes effect July 1, 2009." [2008 c 25 § 3.]

18.108.028 Transfer programs. In order to recognize prior education that is applicable to licensure as a massage therapist or massage practitioner while protecting the public, the board shall adopt rules to allow massage programs that are approved by the board to establish transfer programs that accept an individual's credits or clock hours from schools that have not been approved by the board. "Prior education" must be defined to include but not be limited to, credits or clock hours from schools, colleges, and universities that are:

(1) Accredited by a national or regional accreditation organization;

(2) Approved by a state authority with responsibility for oversight of vocational programs; or

(3) Approved by a state agency that regulates massage programs and is a member of the federation of state massage therapy boards. [2016 c 53 § 1.]

18.108.030 Licensure or certification required. (Effective until July 1, 2017.) (1)(a) No person may practice (2016 Ed.)

or represent himself or herself as a massage practitioner without first applying for and receiving from the department a license to practice. However, this subsection does not prohibit a certified reflexologist from practicing reflexology.

(b) A person represents himself or herself as a massage practitioner when the person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: Massage, massage practitioner, massage therapist, massage therapy, therapeutic massage, massage technician, massage technology, massagist, masseur, masseuse, myotherapist or myotherapy, touch therapist, reflexologist except when used by a certified reflexologist, acupressurist, body therapy or body therapist, or any derivation of those terms that implies a massage technique or method.

(2)(a) No person may practice reflexology or represent himself or herself as a reflexologist by use of any title without first being certified as a reflexologist or licensed as a massage practitioner by the department.

(b) A person represents himself or herself as a reflexologist when the person adopts or uses any title in any description of services that incorporates one or more of the following terms or designations: Reflexologist, reflexology, foot pressure therapy, foot reflex therapy, or any derivation of those terms that implies a reflexology technique or method. However, this subsection does not prohibit a licensed massage practitioner from using any of these terms as a description of services.

(c) A person may not use the term "certified reflexologist" without first being certified by the department. [2012 c 137 § 5; 1995 c 198 § 15; 1987 c 443 § 3; 1975 1st ex.s. c 280 § 3.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.030 Licensure or certification required. (Effective July 1, 2017.) (1)(a) No person may practice or represent himself or herself as a massage therapist without first applying for and receiving from the department a license to practice. However, this subsection does not prohibit a certified reflexologist from practicing reflexology.

(b) A person represents himself or herself as a massage therapist when the person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: Massage, massage practitioner, massage therapist, massage therapy, therapeutic massage, massage technician, massage technology, massagist, masseur, masseuse, myotherapist or myotherapy, touch therapist, reflexologist except when used by a certified reflexologist, acupressurist, body therapy or body therapist, or any derivation of those terms that implies a massage technique or method.

(2)(a) No person may practice reflexology or represent himself or herself as a reflexologist by use of any title without first being certified as a reflexologist or licensed as a massage therapist by the department.

(b) A person represents himself or herself as a reflexologist when the person adopts or uses any title in any description of services that incorporates one or more of the following terms or designations: Reflexologist, reflexology, foot pressure therapy, foot reflex therapy, or any derivation of those

terms that implies a reflexology technique or method. However, this subsection does not prohibit a licensed massage therapist from using any of these terms as a description of services.

(c) A person may not use the term "certified reflexologist" without first being certified by the department. [2016 c 41 § 3; 2012 c 137 § 5; 1995 c 198 § 15; 1987 c 443 § 3; 1975 1st ex.s. c 280 § 3.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.035 Unlicensed practice—Penalties. The following penalties must be imposed upon an owner of a massage business or reflexology business where the unlicensed practice of massage therapy or reflexology has been committed:

(1) Any person who with knowledge or criminal negligence allows or permits the unlicensed practice of massage therapy or reflexology to be committed within his or her massage business or reflexology business by another is guilty of a misdemeanor for a single violation.

(2) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a gross misdemeanor punishable according to chapter 9A.20 RCW. [2015 c 18 § 1.]

18.108.040 Advertising—Use of title. (Effective until July 1, 2017.) (1)(a) It shall be unlawful to advertise the practice of massage using the term massage or any other term that implies a massage technique or method in any public or private publication or communication by a person not licensed by the secretary as a massage practitioner. However, this subsection does not prohibit a certified reflexologist from using the term reflexology or derivations of the term, subject to subsection (2)(b) of this section.

(b) Any person who holds a license to practice as a massage practitioner in this state may use the title "licensed massage practitioner" and the abbreviation "L.M.P.". No other persons may assume such title or use such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage practitioner.

(c) A massage practitioner's name and license number must conspicuously appear on all of the massage practitioner's advertisements.

(2)(a) It is unlawful to advertise the practice of reflexology or use any other term that implies reflexology technique or method in any public or private publication or communication by a person not certified by the secretary as a reflexologist or licensed as a massage practitioner.

(b) A person certified as a reflexologist may not adopt or use any title or description of services, including for purposes of advertising, that incorporates one or more of the following terms or designations: Massage, masseuse, massager, massagist, masseur, myotherapist or myotherapy, touch therapist, body therapy or therapist, or any derivation of those terms that implies a massage technique or therapy unless the person is also licensed under this chapter as a massage practitioner.

(c) A reflexologist's name and certification number must conspicuously appear on all of the reflexologist's advertise-

ments. [2012 c 137 § 6; 2011 c 223 § 1; 1995 c 353 § 1; 1991 c 3 § 255; 1987 c 443 § 4; 1975 1st ex.s. c 280 § 4.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.040 Advertising—Use of title. (Effective July 1, 2017.) (1)(a) It shall be unlawful to advertise the practice of massage using the term massage or any other term that implies a massage technique or method in any public or private publication or communication by a person not licensed by the secretary as a massage therapist. However, this subsection does not prohibit a certified reflexologist from using the term reflexology or derivations of the term, subject to subsection (2)(b) of this section.

(b) Any person who holds a license to practice as a massage therapist in this state may use the title "licensed massage therapist" and the abbreviation "L.M.T.". No other persons may assume such title or use such abbreviation or any other word, letters, signs, or figures to indicate that the person using the title is a licensed massage therapist.

(c) A massage therapist's name and license number must conspicuously appear on all of the massage therapist's advertisements.

(2)(a) It is unlawful to advertise the practice of reflexology or use any other term that implies reflexology technique or method in any public or private publication or communication by a person not certified by the secretary as a reflexologist or licensed as a massage therapist.

(b) A person certified as a reflexologist may not adopt or use any title or description of services, including for purposes of advertising, that incorporates one or more of the following terms or designations: Massage, masseuse, massager, massagist, masseur, myotherapist or myotherapy, touch therapist, body therapy or therapist, or any derivation of those terms that implies a massage technique or therapy unless the person is also licensed under this chapter as a massage therapist.

(c) A reflexologist's name and certification number must conspicuously appear on all of the reflexologist's advertisements. [2016 c 41 § 4; 2012 c 137 § 6; 2011 c 223 § 1; 1995 c 353 § 1; 1991 c 3 § 255; 1987 c 443 § 4; 1975 1st ex.s. c 280 § 4.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.045 Display of license or certification. (Effective until July 1, 2017.) A massage practitioner licensed under this chapter or a reflexologist certified under this chapter must conspicuously display his or her credential in his or her principal place of business. If the licensed massage practitioner or certified reflexologist does not have a principal place of business or conducts business in any other location, he or she must have a copy of his or her credential available for inspection while performing services within his or her authorized scope of practice. [2012 c 137 § 7; 2011 c 223 § 2.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.045 Display of license or certification. (Effective July 1, 2017.) A massage therapist licensed under this

chapter or a reflexologist certified under this chapter must conspicuously display his or her credential in his or her principal place of business. If the licensed massage therapist or certified reflexologist does not have a principal place of business or conducts business in any other location, he or she must have a copy of his or her credential available for inspection while performing services within his or her authorized scope of practice. [2016 c 41 § 5; 2012 c 137 § 7; 2011 c 223 § 2.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.050 Exemptions. This chapter does not apply to:

- (1) An individual giving massage or reflexology to members of his or her immediate family;
- (2) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice;
- (3) Massage or reflexology practiced at the athletic department of:
 - (a) Any institution maintained by the public funds of the state, or any of its political subdivisions;
 - (b) Any primary or secondary school or institution of higher education;
 - (c) Any school or college approved by the department of health by rule using recognized national professional standards; or
 - (d) Any nonprofit organization licensed under RCW 66.24.400 and 66.24.450;
- (4) Students enrolled in an approved massage school, approved program, or approved apprenticeship program, practicing massage techniques, incidental to the massage school or program and supervised by the approved school or program. Students must identify themselves as a student when performing massage services on members of the public. Students may not be compensated for the massage services they provide;
- (5) Students enrolled in an approved reflexology school, approved program, or approved apprenticeship program, practicing reflexology techniques, incidental to the reflexologist school or program and supervised by the approved school or program. Students must identify themselves as a student when performing reflexology services on members of the public. Students may not be compensated for the reflexology services they provide; or
- (6) Individuals who have completed a somatic education training program approved by the secretary. [2012 c 137 § 8; 2002 c 277 § 2; 1997 c 297 § 3; 1995 c 198 § 16; 1987 c 443 § 5; 1975 1st ex.s. c 280 § 5.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.060 Applicant—License or certificate holder—Compliance with procedures, requirements, fees. Each applicant and license or certificate holder shall comply with administrative procedures, administrative requirements, and fees set by the secretary under RCW 43.70.250 and 43.70.280. [2012 c 137 § 9; 1996 c 191 § 81;

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1991 c 3 § 256; 1987 c 443 § 6; 1985 c 7 § 79; 1975 1st ex.s. c 280 § 6.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.070 Qualifications for licensure or certification. (Effective until July 1, 2017.) (1) The secretary shall issue a massage practitioner's license to an applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

- (a) Effective June 1, 1988, successful completion of a course of study in an approved massage program, transfer program, or approved apprenticeship program;
 - (b) Successful completion of an examination administered or approved by the board; and
 - (c) Be eighteen years of age or older.
- (2) Beginning July 1, 2013, the secretary shall issue a reflexologist certification to an applicant who completes an application form that identifies the name and address of the applicant and the certification request, and demonstrates to the secretary's satisfaction that the following requirements have been met:

- (a) Successful completion of a course of study in reflexologist program approved by the secretary;
 - (b) Successful completion of an examination administered or approved by the secretary; and
 - (c) Be eighteen years of age or older.
- (3) Applicants for a massage practitioner's license or for certification as a reflexologist shall be subject to the grounds for denial or issuance of a conditional credential under chapter 18.130 RCW.

(4) The secretary may require any information and documentation that reasonably relates to the need to determine whether the massage practitioner or reflexologist applicant meets the criteria for licensure provided for in this chapter and chapter 18.130 RCW. The secretary shall establish by rule what constitutes adequate proof of meeting the criteria. [2016 c 53 § 3; 2012 c 137 § 10; 1991 c 3 § 257; 1987 c 443 § 7; 1975 1st ex.s. c 280 § 7.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.070 Qualifications for licensure or certification. (Effective July 1, 2017.) (1) The secretary shall issue a massage therapist's license to an applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

- (a) Effective June 1, 1988, successful completion of a course of study in an approved massage program, transfer program, or approved apprenticeship program;
 - (b) Successful completion of an examination administered or approved by the board; and
 - (c) Be eighteen years of age or older.
- (2) Beginning July 1, 2013, the secretary shall issue a reflexologist certification to an applicant who completes an application form that identifies the name and address of the applicant and the certification request, and demonstrates to the secretary's satisfaction that the following requirements have been met:

- (a) Successful completion of a course of study in reflexologist program approved by the secretary;

(b) Successful completion of an examination administered or approved by the secretary; and

(c) Be eighteen years of age or older.

(3) Applicants for a massage therapist's license or for certification as a reflexologist shall be subject to the grounds for denial or issuance of a conditional credential under chapter 18.130 RCW.

(4) The secretary may require any information and documentation that reasonably relates to the need to determine whether the massage therapist or reflexologist applicant meets the criteria for licensure provided for in this chapter and chapter 18.130 RCW. The secretary shall establish by rule what constitutes adequate proof of meeting the criteria. [2016 c 53 § 3; 2016 c 41 § 6; 2012 c 137 § 10; 1991 c 3 § 257; 1987 c 443 § 7; 1975 1st ex.s. c 280 § 7.]

Reviser's note: This section was amended by 2016 c 41 § 6 and by 2016 c 53 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.073 Massage practitioner examination. (Effective until July 1, 2017.) (1) Applicants for the massage practitioner license examination must demonstrate to the secretary's satisfaction that the following requirements have been met:

(a)(i) Effective June 1, 1988, successful completion of a course of study in an approved massage program or transfer program; or

(ii) Effective June 1, 1988, successful completion of an apprenticeship program established by the board; and

(b) Be eighteen years of age or older.

(2) The board or its designee shall examine each massage practitioner applicant in a written examination determined most effective on subjects appropriate to the massage scope of practice. The subjects may include anatomy, kinesiology, physiology, pathology, principles of human behavior, massage theory and practice, hydrotherapy, hygiene, first aid, Washington law pertaining to the practice of massage, and such other subjects as the board may deem useful to test applicant's fitness to practice massage therapy. Such examinations shall be limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) All records of a massage practitioner candidate's performance shall be preserved for a period of not less than one year after the board has made and published decisions thereupon. All examinations shall be conducted by the board under fair and impartial methods as determined by the secretary.

(4) A massage practitioner applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the secretary as provided in RCW 43.70.250. Upon failure of three examinations, the secretary may invalidate the original application and require such remedial education as is required by the board before admission to future examinations.

(5) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by a massage practitioner applicant in meeting the licensing requirement. [2016 c 53 § 4; 2012 c 137 § 11; 1995 c 198 § 17; 1991 c 3 § 258; 1987 c 443 § 8.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.073 Massage therapist examination. (Effective July 1, 2017.) (1) Applicants for the massage therapist license examination must demonstrate to the secretary's satisfaction that the following requirements have been met:

(a)(i) Effective June 1, 1988, successful completion of a course of study in an approved massage program or transfer program; or

(ii) Effective June 1, 1988, successful completion of an apprenticeship program established by the board; and

(b) Be eighteen years of age or older.

(2) The board or its designee shall examine each massage therapist applicant in a written examination determined most effective on subjects appropriate to the massage scope of practice. The subjects may include anatomy, kinesiology, physiology, pathology, principles of human behavior, massage theory and practice, hydrotherapy, hygiene, first aid, Washington law pertaining to the practice of massage, and such other subjects as the board may deem useful to test applicant's fitness to practice massage therapy. Such examinations shall be limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) All records of a massage therapist candidate's performance shall be preserved for a period of not less than one year after the board has made and published decisions thereupon. All examinations shall be conducted by the board under fair and impartial methods as determined by the secretary.

(4) A massage therapist applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the secretary as provided in RCW 43.70.250. Upon failure of three examinations, the secretary may invalidate the original application and require such remedial education as is required by the board before admission to future examinations.

(5) The board may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by a massage therapist applicant in meeting the licensing requirement. [2016 c 53 § 4; 2016 c 41 § 7; 2012 c 137 § 11; 1995 c 198 § 17; 1991 c 3 § 258; 1987 c 443 § 8.]

Reviser's note: This section was amended by 2016 c 41 § 7 and by 2016 c 53 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.074 Reflexology examination. (1) Beginning July 1, 2013, applicants for the reflexology certification

examination must demonstrate to the secretary's satisfaction that the following requirements have been met:

(a)(i) Successful completion of a course of study in an approved reflexology program; or

(ii) Successful completion of an apprenticeship program approved by the secretary; and

(b) Be eighteen years of age or older.

(2) The secretary or his or her designee shall examine each reflexology applicant in a written examination determined most effective on subjects appropriate to the reflexology scope of practice. The subjects may include those that the secretary deems useful to test applicant's fitness to practice reflexology. Such examinations shall be limited in purpose to determining whether the applicant possesses the minimum skill and knowledge necessary to practice reflexology competently.

(3) All records of a reflexology candidate's performance shall be preserved for a period of not less than one year after the secretary has made and published decisions thereupon. All examinations shall be conducted under fair and impartial methods as determined by the secretary.

(4) A reflexology applicant who fails to make the required grade in the first examination is entitled to take up to two additional examinations upon the payment of a fee for each subsequent examination determined by the secretary as provided in RCW 43.70.250. Upon failure of three examinations, the secretary may invalidate the original application and require such remedial education as is required by the secretary before admission to future examinations.

(5) The secretary may approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by a reflexology applicant in meeting the certification requirement. [2012 c 137 § 12.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.085 Powers and duties of secretary—Uniform Disciplinary Act—License or certificate revocation—Reinstatement. (Effective until July 1, 2017.) (1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW necessary to implement this chapter;

(b) Set all license, certification, examination, and renewal fees in accordance with RCW 43.70.250;

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

(d) Issue a massage practitioner's license to any applicant who has met the education, training, and examination requirements for licensure and deny licensure to applicants who do not meet the requirements of this chapter;

(e) Issue a reflexology certification to any applicant who has met the requirements for certification and deny certification to applicants who do not meet the requirements of this chapter; and

(f) Hire clerical, administrative, and investigative staff as necessary to implement this chapter.

(2) The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed and uncertified practice, the issuance and denial of licenses and certifications, and the disciplining of

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persons under this chapter. The secretary shall be the disciplining authority under this chapter.

(3) Any license or certification issued under this chapter to a person who is or has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances shall automatically be revoked by the secretary upon receipt of a certified copy of the court documents reflecting such conviction, except as provided in RCW 9.97.020. No further hearing or procedure is required, and the secretary has no discretion with regard to the revocation of the license or certification. The revocation shall be effective even though such conviction may be under appeal, or the time period for such appeal has not elapsed. However, upon presentation of a final appellate decision overturning such conviction, the license or certification shall be reinstated, unless grounds for disciplinary action have been found under chapter 18.130 RCW. No license or certification may be granted under this chapter to any person who has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances within the eight years immediately preceding the date of application, except as provided in RCW 9.97.020. For purposes of this subsection, "convicted" does not include a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence, but does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(4) The secretary shall keep an official record of all proceedings under this chapter, a part of which record shall consist of a register of all applicants for licensure or certification under this chapter, with the result of each application. [2016 c 81 § 11; 2012 c 137 § 14; 1996 c 154 § 1; 1995 c 353 § 2; 1991 c 3 § 259; 1987 c 443 § 11.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.085 Powers and duties of secretary—Uniform Disciplinary Act—License or certificate revocation—Reinstatement. (Effective July 1, 2017.) (1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW necessary to implement this chapter;

(b) Set all license, certification, examination, and renewal fees in accordance with RCW 43.70.250;

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

(d) Issue a massage therapist's license to any applicant who has met the education, training, and examination requirements for licensure and deny licensure to applicants who do not meet the requirements of this chapter;

(e) Issue a reflexology certification to any applicant who has met the requirements for certification and deny certification to applicants who do not meet the requirements of this chapter; and

(f) Hire clerical, administrative, and investigative staff as necessary to implement this chapter.

(2) The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed and uncertified practice, the issuance and

denial of licenses and certifications, and the disciplining of persons under this chapter. The secretary shall be the disciplining authority under this chapter.

(3) Any license or certification issued under this chapter to a person who is or has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances shall automatically be revoked by the secretary upon receipt of a certified copy of the court documents reflecting such conviction, except as provided in RCW 9.97.020. No further hearing or procedure is required, and the secretary has no discretion with regard to the revocation of the license or certification. The revocation shall be effective even though such conviction may be under appeal, or the time period for such appeal has not elapsed. However, upon presentation of a final appellate decision overturning such conviction, the license or certification shall be reinstated, unless grounds for disciplinary action have been found under chapter 18.130 RCW. No license or certification may be granted under this chapter to any person who has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances within the eight years immediately preceding the date of application, except as provided in RCW 9.97.020. For purposes of this subsection, "convicted" does not include a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence, but does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(4) The secretary shall keep an official record of all proceedings under this chapter, a part of which record shall consist of a register of all applicants for licensure or certification under this chapter, with the result of each application. [2016 c 81 § 11; 2016 c 41 § 8; 2012 c 137 § 14; 1996 c 154 § 1; 1995 c 353 § 2; 1991 c 3 § 259; 1987 c 443 § 11.]

Reviser's note: This section was amended by 2016 c 41 § 8 and by 2016 c 81 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.095 Out-of-state massage practitioner applicants. (Effective until July 1, 2017.) A massage practitioner applicant holding a license in another state or foreign jurisdiction may be granted a Washington license without examination, if, in the opinion of the board, the other state's or foreign jurisdiction's examination and educational requirements are substantially equivalent to Washington's. However, the applicant must demonstrate to the satisfaction of the board a working knowledge of Washington law pertaining to the practice of massage. The applicant shall provide proof in a manner approved by the department that the examination and requirements are equivalent to Washington's. [2012 c 137 § 13; 1987 c 443 § 12.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Additional notes found at www.leg.wa.gov

18.108.095 Out-of-state massage therapist applicants. (Effective July 1, 2017.) A massage therapist applicant holding a license in another state or foreign jurisdiction may be granted a Washington license without examination, if, in the opinion of the board, the other state's or foreign jurisdiction's examination and educational requirements are substantially equivalent to Washington's. However, the applicant must demonstrate to the satisfaction of the board a working knowledge of Washington law pertaining to the practice of massage. The applicant shall provide proof in a manner approved by the department that the examination and requirements are equivalent to Washington's. [2016 c 41 § 9; 2012 c 137 § 13; 1987 c 443 § 12.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Additional notes found at www.leg.wa.gov

18.108.115 Persons licensed under prior law. (Effective until July 1, 2017.) Any person holding a valid license to practice massage issued by authority of the state on July 26, 1987, shall continue to be licensed as a massage practitioner under the provisions of this chapter. [1987 c 443 § 13.]

18.108.115 Persons licensed under prior law. (Effective July 1, 2017.) Any person holding a valid license to practice massage issued by authority of the state on July 26, 1987, shall continue to be licensed as a massage therapist under the provisions of this chapter. [2016 c 41 § 10; 1987 c 443 § 13.]

Effective date—2016 c 41: See note following RCW 18.108.010.

18.108.125 Inactive credential—Reinstatement. (Effective until July 1, 2017.) (1) The secretary must grant a massage practitioner an inactive credential if the massage practitioner submits a letter to the board stating his or her intent to obtain an inactive credential, and he or she:

(a) Holds an active Washington state massage practitioner's license;

(b) Is in good standing, as determined by the board; and

(c) Does not practice massage in the state of Washington.

(2) The secretary may reinstate the massage practitioner's license if the massage practitioner:

(a) Pays the current active renewal fee and other fees for active licensure;

(b) Provides a written declaration that:

(i) No action has been taken by a state or federal jurisdiction or a hospital which would prevent or restrict the practitioner's practice of massage therapy;

(ii) He or she has not voluntarily given up any credential or privilege or been restricted in the practice of massage therapy to avoid other sanctions; and

(iii) He or she has satisfied continuing education and competency requirements for the two most recent years; and

(c) Meets other requirements for reinstatement, as may be determined by the board. [2008 c 25 § 2.]

Effective date—2008 c 25: See note following RCW 18.108.025.

18.108.125 Inactive credential—Reinstatement. (Effective July 1, 2017.) (1) The secretary must grant a massage therapist an inactive credential if the massage therapist

submits a letter to the board stating his or her intent to obtain an inactive credential, and he or she:

(a) Holds an active Washington state massage therapist's license;

(b) Is in good standing, as determined by the board; and

(c) Does not practice massage in the state of Washington.

(2) The secretary may reinstate the massage therapist's license if the massage therapist:

(a) Pays the current active renewal fee and other fees for active licensure;

(b) Provides a written declaration that:

(i) No action has been taken by a state or federal jurisdiction or a hospital which would prevent or restrict the therapist's practice of massage therapy;

(ii) He or she has not voluntarily given up any credential or privilege or been restricted in the practice of massage therapy to avoid other sanctions; and

(iii) He or she has satisfied continuing education and competency requirements for the two most recent years; and

(c) Meets other requirements for reinstatement, as may be determined by the board. [2016 c 41 § 11; 2008 c 25 § 2.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Effective date—2008 c 25: See note following RCW 18.108.025.

18.108.131 Exemptions—Reflexology. (Effective until July 1, 2017.) (1) The secretary may certify an applicant as a reflexologist without examination if the applicant:

(a) Has practiced reflexology as a licensed massage practitioner for at least five years prior to July 1, 2013, or provides evidence satisfactory to the secretary that he or she has, prior to July 1, 2013, successfully completed a course of study in a reflexology program approved by the secretary; and

(b) Applies for certification by one year after July 1, 2013.

(2) An applicant holding a reflexology credential in another state or a territory of the United States may be certified to practice in this state without examination if the secretary determines that the other jurisdiction's credentialing standards are substantially equivalent to the standards in this state. [2012 c 137 § 15.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.131 Exemptions—Reflexology. (Effective July 1, 2017.) (1) The secretary may certify an applicant as a reflexologist without examination if the applicant:

(a) Has practiced reflexology as a licensed massage therapist for at least five years prior to July 1, 2013, or provides evidence satisfactory to the secretary that he or she has, prior to July 1, 2013, successfully completed a course of study in a reflexology program approved by the secretary; and

(b) Applies for certification by one year after July 1, 2013.

(2) An applicant holding a reflexology credential in another state or a territory of the United States may be certified to practice in this state without examination if the secretary determines that the other jurisdiction's credentialing standards are substantially equivalent to the standards in this state. [2016 c 41 § 12; 2012 c 137 § 15.]

Effective date—2016 c 41: See note following RCW 18.108.010.

(2016 Ed.)

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.190 Inspection of premises by law enforcement personnel. State and local law enforcement personnel shall have the authority to inspect the premises at any time including business hours. [1975 1st ex.s. c 280 § 20.]

18.108.195 Inspection of premises by secretary. (1) For the purposes of ascertaining violations of this chapter and chapter 18.130 RCW, the secretary or authorized representative has the authority to inspect, within reasonable limits and in a reasonable manner, the premises of any massage or reflexology business establishment during hours such business is open. If the secretary is denied access to any premises or establishment the secretary may apply to any court of competent jurisdiction for a warrant authorizing access to such premises or establishment for such purposes. The court may, upon such application, issue a warrant for the purpose requested.

(2) This section does not require advance notice of an inspection. [2012 c 137 § 16.]

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

18.108.210 Authority of local political subdivisions. Nothing in this chapter limits or abridges the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied upon all businesses, or to levy a tax based upon gross business conducted by any firm within said political subdivision. [2007 c 165 § 2; 1975 1st ex.s. c 280 § 22.]

Finding—2007 c 165: "The legislature finds that licensed massage practitioners should be treated the same as other health professionals under Title 18 RCW and that additional registrations or licenses regulating massage or massage practitioners are not authorized." [2007 c 165 § 1.]

18.108.220 Federal classification. (Effective until July 1, 2017.) For the purposes of this chapter, licensed massage practitioners shall be classified as "offices and clinics of health practitioners, not elsewhere classified" under section 8049 of the standard industrial classification manual published by the executive office of the president, office of management and budget. [1994 c 228 § 1.]

Additional notes found at www.leg.wa.gov

18.108.220 Federal classification. (Effective July 1, 2017.) For the purposes of this chapter, licensed massage therapists shall be classified as "offices and clinics of health practitioners, not elsewhere classified" under section 8049 of the standard industrial classification manual published by the executive office of the president, office of management and budget. [2016 c 41 § 13; 1994 c 228 § 1.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Additional notes found at www.leg.wa.gov

18.108.230 Animal massage practitioner—Endorsement—Training requirements—Rules. (Effective until July 1, 2017.) (1) A massage practitioner licensed under this chapter may apply for an endorsement as a small or large animal massage practitioner upon completion of one hundred hours of training in either large or small animal massage.

Training must include animal massage techniques, kinesiology, anatomy, physiology, first aid care, and proper handling techniques.

(2) An applicant who applies for an endorsement within the first year following July 22, 2001, may submit documentation of a minimum of fifty hours of training with up to fifty hours of practical experience or continuing education, or a combination thereof, to fulfill the requirements of this section.

(3) Massage therapy of animals does not include diagnosis, prognosis, or all treatment of diseases, deformities, defects, wounds, or injuries of animals. For the purposes of this section, massage for therapeutic purposes may be performed solely for purposes of patient well-being.

(4) A person licensed and endorsed under this section may hold themselves out as an animal massage practitioner.

(5) The board may adopt rules to implement this section upon consultation with the Washington state veterinary board of governors and licensed massage practitioners with training in animal massage. [2001 c 297 § 3.]

Findings—Intent—2001 c 297: See note following RCW 18.108.010.

18.108.230 Animal massage therapist—Endorsement—Training requirements—Rules. (Effective July 1, 2017.) (1) A massage therapist licensed under this chapter may apply for an endorsement as a small or large animal massage therapist upon completion of one hundred hours of training in either large or small animal massage. Training must include animal massage techniques, kinesiology, anatomy, physiology, first aid care, and proper handling techniques.

(2) An applicant who applies for an endorsement within the first year following July 22, 2001, may submit documentation of a minimum of fifty hours of training with up to fifty hours of practical experience or continuing education, or a combination thereof, to fulfill the requirements of this section.

(3) Massage therapy of animals does not include diagnosis, prognosis, or all treatment of diseases, deformities, defects, wounds, or injuries of animals. For the purposes of this section, massage for therapeutic purposes may be performed solely for purposes of patient well-being.

(4) A person licensed and endorsed under this section may hold themselves out as an animal massage therapist.

(5) The board may adopt rules to implement this section upon consultation with the Washington state veterinary board of governors and licensed massage therapists with training in animal massage. [2016 c 41 § 14; 2001 c 297 § 3.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Findings—Intent—2001 c 297: See note following RCW 18.108.010.

18.108.240 Chapter 277, Laws of 2002—Review/regulatory changes. The department of health shall review the implementation of chapter 277, Laws of 2002 and make recommendations to the legislature by December 1, 2005, regarding regulatory changes to chapter 277, Laws of 2002. [2002 c 277 § 3.]

18.108.250 Intraoral massage—Endorsement. (Effective until July 1, 2017.) (1) A massage practitioner licensed under this chapter may apply for an endorsement to perform intraoral massage upon completion of training deter-

mined by the board and specified in rules. Training must include intraoral massage techniques, cranial anatomy, physiology, and kinesiology, hygienic practices, safety and sanitation, pathology, and contraindications.

(2) A massage practitioner who has obtained an intraoral massage endorsement to his or her massage practitioner license may practice intraoral massage. [2007 c 272 § 2.]

18.108.250 Intraoral massage—Endorsement. (Effective July 1, 2017.) (1) A massage therapist licensed under this chapter may apply for an endorsement to perform intraoral massage upon completion of training determined by the board and specified in rules. Training must include intraoral massage techniques, cranial anatomy, physiology, and kinesiology, hygienic practices, safety and sanitation, pathology, and contraindications.

(2) A massage therapist who has obtained an intraoral massage endorsement to his or her massage therapist license may practice intraoral massage. [2016 c 41 § 15; 2007 c 272 § 2.]

Effective date—2016 c 41: See note following RCW 18.108.010.

18.108.902 Savings—1987 c 443. This chapter shall not be construed as affecting any existing right acquired or liability or obligations incurred under the sections amended or repealed in this chapter or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections. [1987 c 443 § 14.]

Chapter 18.110 RCW ART DEALERS—ARTISTS

Sections

- 18.110.010 Definitions.
- 18.110.020 Rights—Duties—Liabilities.
- 18.110.030 Contract required—Provisions.
- 18.110.040 Violations—Penalties—Attorney fees.
- 18.110.900 Application of chapter.

18.110.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Art dealer" means a person, partnership, firm, association, or corporation, other than a public auctioneer, which undertakes to sell a work of fine art created by another.

(2) "Artist" means the creator of a work of fine art.

(3) "On consignment" means delivered to an art dealer for the purpose of sale or exhibition, or both, to the public by the art dealer other than at a public auction.

(4) "Work of fine art" means an original art work which is:

(a) A visual rendition including a painting, drawing, sculpture, mosaic, or photograph;

(b) A work of calligraphy;

(c) A work of graphic art including an etching, lithograph, offset print, or silk screen;

(d) A craft work in materials including clay, textile, fiber, wood, metal, plastic, or glass; or

(e) A work in mixed media including a collage or a work consisting of any combination of works included in this subsection. [1981 c 33 § 1.]

18.110.020 Rights—Duties—Liabilities. If an art dealer accepts a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist:

(1) The art dealer is, with respect to that work of fine art, the agent of the artist.

(2) The work of fine art is trust property and the art dealer is trustee for the benefit of the artist until the work of fine art is sold to a bona fide third party.

(3) The proceeds of the sale of the work of fine art are trust property and the art dealer is trustee for the benefit of the artist until the amount due the artist from the sale is paid. These trust funds shall be paid to the artist within thirty days of receipt by the art dealer unless the parties expressly agree otherwise in writing. If the sale of the work of fine art is on installment, the funds from the installment shall first be applied to pay any balance due the artist on the sale, unless the artist expressly agrees in writing that the proceeds on each installment shall be paid according to a percentage established by the consignment agreement.

(4) The art dealer is strictly liable for the loss of or damage to the work of fine art while it is in the art dealer's possession. For the purpose of this subsection the value of the work of fine art is the value established in a written agreement between the artist and art dealer prior to the loss or damage or, if no written agreement regarding the value of the work of fine art exists, the fair market value of the work of fine art.

A work of fine art which is trust property when initially accepted by the art dealer remains trust property notwithstanding the subsequent purchase of the work of fine art by the art dealer directly or indirectly for the art dealer's own account until the purchase price is paid in full to the artist. No property which is trust property under this section is subject to the claims, liens, or security interests of the creditors of the art dealer. [1981 c 33 § 2.]

18.110.030 Contract required—Provisions. (1) An art dealer may accept a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist only if prior to or at the time of acceptance the art dealer enters into a written contract with the artist which states:

- (a) The value of the work of fine art;
- (b) The minimum price for the sale of the work of fine art; and
- (c) The fee, commission, or other compensation basis of the art dealer.

(2) An art dealer who accepts a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist may use or display the work of fine art or a photograph of the work of fine art or permit the use or display of the work or photograph only if:

- (a) Notice is given to users or viewers that the work of fine art is the work of the artist; and
- (b) The artist gives prior written consent to the particular use or display.

(3) Any portion of a contract which waives any provision of this chapter is void. [1981 c 33 § 3.]

18.110.040 Violations—Penalties—Attorney fees. An art dealer violating RCW 18.110.030 is liable to the artist for fifty dollars plus actual damages, including incidental and consequential damages, sustained as a result of the violation.

(2016 Ed.)

If an art dealer violates RCW 18.110.030, the artist's obligation for compensation to the art dealer is voidable. In an action under this section the court may, in its discretion, award the artist reasonable attorney's fees. [1981 c 33 § 4.]

18.110.900 Application of chapter. This chapter applies to any work of fine art accepted on consignment on or after July 26, 1981. If a work of fine art is accepted on consignment on or after July 26, 1981 under a contract made before that date, this section applies only to the extent that it does not conflict with the contract. [1981 c 33 § 5.]

Chapter 18.118 RCW REGULATION OF BUSINESS PROFESSIONS

Sections

- 18.118.005 Legislative findings—Intent.
- 18.118.010 Purpose—Intent.
- 18.118.020 Definitions.
- 18.118.030 Applicants for regulation—Information.
- 18.118.040 Applicants for regulation—Written report—Recommendation of department of licensing.
- 18.118.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

18.118.005 Legislative findings—Intent. The legislature recognizes the value of an analytical review, removed from the political process, of proposals for increased regulation of real estate and other business professions which the legislature already regulates, as well as of proposals for regulation of professions not currently regulated. The legislature further finds that policies and standards set out for regulation of the health professions in chapter 18.120 RCW have equal applicability to other professions. To further the goal of governmental regulation only as necessary to protect the public interest and to promote economic development through employment, the legislature expands the scope of chapter 18.120 RCW to apply to business professions. The legislature intends that the reviews of proposed business profession regulation be conducted by the department of licensing's policy and research rather than regulatory staff and that the reviews be conducted and recommendations made in an impartial manner. Further, the legislature intends that the department of licensing provide sufficient staffing to conduct the reviews. [1987 c 514 § 3.]

18.118.010 Purpose—Intent. (1) The purpose of this chapter is to establish guidelines for the regulation of the real estate profession and other business professions which may seek legislation to substantially increase their scope of practice or the level of regulation of the profession, and for the regulation of business professions not licensed or regulated on July 26, 1987: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 26, 1987, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or Washington professional educator standards board under RCW 28A.410.210 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 26, 1987; and (e) apply to proposals relat-

ing solely to continuing education. The legislature believes that all individuals should be permitted to enter into a business profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall be imposed upon any business profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a business profession for the first time should be reviewed according to the following criteria. A business profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a business profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the business profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing. [2005 c 497 § 218; 1990 c 33 § 553; 1987 c 514 § 4.]

Intent—Part headings not law—Effective date—2005 c 497: See notes following RCW 28A.305.011.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

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

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

(2) "Business professions" means those business occupations or professions which are not health professions under chapter 18.120 RCW and includes, in addition to real estate brokers and salespersons under chapter 18.85 RCW, the following professions and occupations: Accountancy under chapter 18.04 RCW; architects under chapter 18.08 RCW; auctioneering under chapter 18.11 RCW; cosmetologists, barbers, and manicurists under chapter 18.16 RCW; contractors under chapter 18.27 RCW; debt adjusting under chapter 18.28 RCW; engineers and surveyors under chapter 18.43 RCW; escrow agents under chapter 18.44 RCW; landscape architects under chapter 18.96 RCW; water well construction under chapter 18.104 RCW; plumbers under chapter 18.106 RCW; and art dealers under chapter 18.110 RCW.

(3) "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 professional tasks.

(4) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated 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.

(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 business professions not previously regulated.

(7) "License", "licensing", and "licensure" mean permission to engage in a business 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 professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on an 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 business profession.

(10) "Public member" means an individual who is not, and never was, a member of the business 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 business 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 business 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. [1987 c 514 § 5.]

18.118.030 Applicants for regulation—Information.

After July 26, 1987, if appropriate, applicant groups shall explain each of the following factors to the extent requested by the legislative committees of reference:

(1) A definition of the problem and why regulation is necessary:

(a) The nature of the potential harm to the public if the business profession is not regulated, and the extent to which there is a threat to public health and safety;

(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the profession; and

(c) The extent of autonomy a practitioner has, as indicated by:

(i) The extent to which the profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and

(ii) The extent to which practitioners are supervised;

(2) The efforts made to address the problem:

(a) Voluntary efforts, if any, by members of the profession to:

(i) Establish a code of ethics; or

(ii) Help resolve disputes between practitioners and consumers; and

(b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem;

(3) The alternatives considered:

(a) Regulation of business employers or practitioners rather than employee practitioners;

(b) Regulation of the program or service rather than the individual practitioners;

(c) Registration of all practitioners;

(d) Certification of all practitioners;

(e) Other alternatives;

(f) Why the use of the alternatives specified in this subsection would not be adequate to protect the public interest; and

(g) Why licensing would serve to protect the public interest;

(4) The benefit to the public if regulation is granted:

(a) The extent to which the incidence of specific problems present in the unregulated profession can reasonably be expected to be reduced by regulation;

(b) Whether the public can identify qualified practitioners;

(c) The extent to which the public can be confident that qualified practitioners are competent:

(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and non-renewal of registrations, certificates, or licenses; the promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system;

(ii) If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date;

(iii) The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions;

(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions; and

(v) The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met;

(d) Assurance of the public that practitioners have maintained their competence:

(i) Whether the registration, certification, or licensure will carry an expiration date; and

(ii) Whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;

(5) The extent to which regulation might harm the public:

(a) The extent to which regulation will restrict entry into the profession:

(i) Whether the proposed standards are more restrictive than necessary to insure safe and effective performance; and

(ii) Whether the proposed legislation requires registered, certificated, or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification, and licensure when the other jurisdiction has substantially equivalent requirements for registration, certification, or licensure as those in this state; and

(b) Whether there are similar professions to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation;

(6) The maintenance of standards:

(a) Whether effective quality assurance standards exist in the profession, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and

(b) How the proposed legislation will assure quality:

(i) The extent to which a code of ethics, if any, will be adopted; and

(ii) The grounds for suspension or revocation of registration, certification, or licensure;

(7) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice; and

(8) The expected costs of regulation:

(a) The impact registration, certification, or licensure will have on the costs of the services to the public; and

(b) The cost to the state and to the general public of implementing the proposed legislation. [1987 c 514 § 6.]

18.118.040 Applicants for regulation—Written report—Recommendation of department of licensing.

Applicant groups shall submit a written report explaining the factors enumerated in RCW 18.118.030 to the legislative committees of reference. Applicant groups, other than state agencies created prior to July 26, 1987, shall submit copies of their written report to the department of licensing for review and comment. The department of licensing shall make recommendations based on the report to the extent requested by the legislative committees. [1987 c 514 § 7.]

18.118.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 49.]

Chapter 18.120 RCW

**REGULATION OF HEALTH PROFESSIONS—
CRITERIA**

Sections

18.120.010 Purpose—Criteria.

18.120.020 Definitions.

18.120.030 Applicants for regulation—Information.

- 18.120.040 Applicants for regulation—Written reports—Recommendations by state board of health and department of health.
18.120.050 Continuing education requirements—Legislative proposals—Evidence of effectiveness.
18.120.900 Short title.
18.120.920 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

Secretary of health or secretary's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.70.300.

18.120.010 Purpose—Criteria. (1) The purpose of this chapter is to establish guidelines for the regulation of health professions not licensed or regulated prior to July 24, 1983, and those licensed or regulated health professions which seek to substantially increase their scope of practice: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 24, 1983, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or Washington professional educator standards board under RCW 28A.410.210 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; and (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 24, 1983. The legislature believes that all individuals should be permitted to enter into a health profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall, after July 24, 1983, be imposed upon any health profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a health profession for the first time should be reviewed according to the following criteria. A health profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a health profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable

an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the health profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing. [2005 c 497 § 219; 1990 c 33 § 554; 1983 c 168 § 1.]

Intent—Part headings not law—Effective date—2005 c 497: See notes following RCW 28A.305.011.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

18.120.020 Definitions. (Effective until July 1, 2017.)

The definitions in this section 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: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A 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; 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 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW;

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respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage practitioners under chapter 18.108 RCW; East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; and reflexologists certified under chapter 18.108 RCW; and medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 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. [2012 c 153 § 15; 2012 c 153 § 14; 2012 c 137 § 18; 2012 c 23 § 8; 2010 c 286 § 14; 2001 c 251 § 26; 2000 c 93 § 15;

1997 c 334 § 13; 1996 c 178 § 9. Prior: 1995 c 323 § 15; 1995 c 1 § 18 (Initiative Measure No. 607, approved November 8, 1994); 1994 sp.s. c 9 § 718; 1989 c 300 § 14; prior: 1988 c 277 § 12; 1988 c 267 § 21; prior: 1987 c 512 § 21; 1987 c 447 § 17; 1987 c 415 § 16; 1987 c 412 § 14; prior: 1985 c 326 § 28; 1985 c 117 § 3; prior: 1984 c 279 § 57; 1984 c 9 § 18; 1983 c 168 § 2.]

Reviser's note: This section was amended by 2012 c 23 § 8, 2012 c 137 § 18, and by 2012 c 153 § 15, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2012 c 153 §§ 15 and 17: "Sections 15 and 17 of this act take effect July 1, 2016." [2012 c 153 § 23.]

Rules—2012 c 153: See note following RCW 18.360.005.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Intent—2010 c 286: See RCW 18.06.005.

Additional notes found at www.leg.wa.gov

18.120.020 Definitions. (Effective July 1, 2017.) The definitions in this section 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: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A 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; 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 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89

RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.380 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) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(9) "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.

(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. [2016 c 41 § 17; 2015 c 118 § 12. Prior: 2012 c 153 § 15;

2012 c 153 § 14; 2012 c 137 § 18; 2012 c 23 § 8; 2010 c 286 § 14; 2001 c 251 § 26; 2000 c 93 § 15; 1997 c 334 § 13; 1996 c 178 § 9; prior: 1995 c 323 § 15; 1995 c 1 § 18 (Initiative Measure No. 607, approved November 8, 1994); 1994 sp.s. c 9 § 718; 1989 c 300 § 14; prior: 1988 c 277 § 12; 1988 c 267 § 21; prior: 1987 c 512 § 21; 1987 c 447 § 17; 1987 c 415 § 16; 1987 c 412 § 14; prior: 1985 c 326 § 28; 1985 c 117 § 3; prior: 1984 c 279 § 57; 1984 c 9 § 18; 1983 c 168 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2016 c 41: See note following RCW 18.108.010.

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

Effective date—2012 c 153 §§ 15 and 17: "Sections 15 and 17 of this act take effect July 1, 2016." [2012 c 153 § 23.]

Rules—2012 c 153: See note following RCW 18.360.005.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Intent—2010 c 286: See RCW 18.06.005.

Additional notes found at www.leg.wa.gov

18.120.030 Applicants for regulation—Information.

After July 24, 1983, if appropriate, applicant groups shall explain each of the following factors to the extent requested by the legislative committees of reference:

(1) A definition of the problem and why regulation is necessary:

(a) The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety;

(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession; and

(c) The extent of autonomy a practitioner has, as indicated by:

(i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and

(ii) The extent to which practitioners are supervised;

(2) The efforts made to address the problem:

(a) Voluntary efforts, if any, by members of the health profession to:

(i) Establish a code of ethics; or

(ii) Help resolve disputes between health practitioners and consumers; and

(b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem;

(3) The alternatives considered:

(a) Regulation of business employers or practitioners rather than employee practitioners;

(b) Regulation of the program or service rather than the individual practitioners;

(c) Registration of all practitioners;

(d) Certification of all practitioners;

(e) Other alternatives;

(f) Why the use of the alternatives specified in this subsection would not be adequate to protect the public interest; and

(g) Why licensing would serve to protect the public interest;

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(4) The benefit to the public if regulation is granted:

(a) The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation;

(b) Whether the public can identify qualified practitioners;

(c) The extent to which the public can be confident that qualified practitioners are competent:

(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and non-renewal of registrations, certificates, or licenses; the promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system;

(ii) If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date;

(iii) The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions;

(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions;

(v) The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met; and

(vi) What additional training programs are anticipated to be necessary to assure training accessible statewide; the anticipated time required to establish the additional training programs; the types of institutions capable of providing the training; a description of how training programs will meet the needs of the expected workforce, including reentry workers, minorities, placebound students, and others;

(d) Assurance of the public that practitioners have maintained their competence:

(i) Whether the registration, certification, or licensure will carry an expiration date; and

(ii) Whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;

(5) The extent to which regulation might harm the public:

(a) The extent to which regulation will restrict entry into the health profession:

(i) Whether the proposed standards are more restrictive than necessary to insure safe and effective performance; and

(ii) Whether the proposed legislation requires registered, certificated, or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification, and licensure when the other jurisdiction has substantially equivalent requirements for registration, certification, or licensure as those in this state; and

(b) Whether there are similar professions to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation;

(6) The maintenance of standards:

(a) Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and

(b) How the proposed legislation will assure quality:

(i) The extent to which a code of ethics, if any, will be adopted; and

(ii) The grounds for suspension or revocation of registration, certification, or licensure;

(7) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice; and

(8) The expected costs of regulation:

(a) The impact registration, certification, or licensure will have on the costs of the services to the public;

(b) The cost to the state and to the general public of implementing the proposed legislation; and

(c) The cost to the state and the members of the group proposed for regulation for the required education, including projected tuition and expenses and expected increases in training programs, staffing, and enrollments at state training institutions. [1991 c 332 § 6; 1983 c 168 § 3.]

Additional notes found at www.leg.wa.gov

18.120.040 Applicants for regulation—Written reports—Recommendations by state board of health and department of health. 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 board of health and the department of health for review and comment. The state board of health and the department of health shall make recommendations based on the report submitted by applicant groups to the extent requested by the legislative committees. [1989 1st ex.s. c 9 § 305; 1984 c 279 § 59.]

Additional notes found at www.leg.wa.gov

18.120.050 Continuing education requirements—Legislative proposals—Evidence of effectiveness. 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. [1984 c 279 § 58.]

Additional notes found at www.leg.wa.gov

18.120.900 Short title. This chapter may be known and cited as the Washington regulation of health professions act. [1983 c 168 § 4.]

18.120.920 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 50.]

Chapter 18.122 RCW

REGULATION OF HEALTH PROFESSIONS— UNIFORM ADMINISTRATIVE PROVISIONS

Sections

18.122.010	Legislative intent.
18.122.020	Definitions.
18.122.030	Registration, certification, and licensure.
18.122.040	Exemptions.
18.122.050	Powers of secretary.
18.122.060	Record of proceedings.
18.122.070	Advisory committees.
18.122.080	Credentialing requirements.
18.122.090	Approval of educational programs.
18.122.100	Examinations.
18.122.110	Applications.
18.122.120	Waiver of examination for initial applications.
18.122.130	Endorsement.
18.122.140	Renewals.
18.122.150	Application of uniform disciplinary act.
18.122.160	Application of chapter.
18.122.165	Health care administration work groups—Secretary's participation.
18.122.900	Section captions.
18.122.901	Severability—1987 c 150.

18.122.010 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 health 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

health regulated after July 26, 1987. [1989 1st ex.s. c 9 § 306; 1987 c 150 § 61.]

Additional notes found at www.leg.wa.gov

18.122.020 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 health.

(3) "Secretary" means the secretary of health or the secretary'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. [1989 1st ex.s. c 9 § 307; 1987 c 150 § 62.]

Additional notes found at www.leg.wa.gov

18.122.030 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 health 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 health, 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 health, 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 health, unless otherwise exempted by this chapter. [1989 1st ex.s. c 9 § 308; 1987 c 150 § 63.]

Additional notes found at www.leg.wa.gov

18.122.040 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;

(2016 Ed.)

(3) The practice by a person who is a regular student in an educational program approved by the secretary, 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. [1991 c 3 § 260; 1987 c 150 § 64.]

18.122.050 Powers of secretary. In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter;

(2) Establish all credentialing, examination, and renewal fees in accordance with RCW 43.70.250;

(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. [1989 1st ex.s. c 9 § 309; 1987 c 150 § 65.]

Additional notes found at www.leg.wa.gov

18.122.060 Record of proceedings. The secretary 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. [1991 c 3 § 261; 1987 c 150 § 66.]

18.122.070 Advisory committees. (1) The secretary 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 credentialed.

(2) The secretary may remove any member of the advisory committees for cause as specified by rule. In the case of a vacancy, the secretary 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 secretary and shall hold meetings during the year as necessary to provide advice to the director [secretary]. 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 secretary, 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. [1991 c 3 § 262; 1987 c 150 § 67.]

18.122.080 Credentialing requirements. (1) The secretary shall issue a license or certificate, as appropriate, to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Graduation from an educational program approved by the secretary 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 secretary.

(2) The secretary 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 secretary 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 secretary necessary to establish whether there are grounds for denial of a registration or

issuance of a conditional registration under chapter 18.130 RCW. [1991 c 3 § 263; 1987 c 150 § 68.]

18.122.090 Approval of educational programs. The secretary shall establish by rule the standards and procedures for approval of educational programs and alternative training. The secretary may utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The secretary 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 secretary may establish a fee for educational program evaluations. [1991 c 3 § 264; 1987 c 150 § 69.]

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

(2) The secretary or the secretary'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 secretary 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 secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The secretary 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. [1989 1st ex.s. c 9 § 310; 1987 c 150 § 70.]

Additional notes found at www.leg.wa.gov

18.122.110 Applications. Applications for credentialing shall be submitted on forms provided by the secretary. The secretary 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 secretary under RCW 43.70.250. The fee shall accompany the application. [1989 1st ex.s. c 9 § 311; 1987 c 150 § 71.]

Additional notes found at www.leg.wa.gov

18.122.120 Waiver of examination for initial applications. The secretary shall waive the examination and credential a person authorized to practice within the state of Washington if the secretary 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. [1991 c 3 § 265; 1987 c 150 § 72.]

18.122.130 Endorsement. An applicant holding a credential in another state may be credentialed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1991 c 3 § 266; 1987 c 150 § 73.]

18.122.140 Renewals. The secretary 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 secretary by taking continuing education courses, or meeting other standards determined by the secretary. [1991 c 3 § 267; 1987 c 150 § 74.]

18.122.150 Application of uniform disciplinary act. 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 secretary shall be the disciplining authority under this chapter. [1991 c 3 § 268; 1987 c 150 § 75.]

18.122.160 Application of chapter. 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. [1987 c 150 § 76.]

18.122.165 Health care administration work groups—Secretary's participation. Pursuant to RCW 48.165.030 and 48.165.035, the secretary or his or her designee shall participate in the work groups and, within funds appropriated specifically for this purpose, implement the standards to enable the department to transmit data to and receive data from the uniform process. [2009 c 298 § 7.]

18.122.900 Section captions. Section captions as used in this chapter do not constitute any part of the law. [1987 c 150 § 77.]

18.122.901 Severability—1987 c 150. 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. [1987 c 150 § 80.]

(2016 Ed.)

Chapter 18.130 RCW
REGULATION OF HEALTH PROFESSIONS—
UNIFORM DISCIPLINARY ACT

Sections

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18.130.010 Intent. It is the intent of the legislature to strengthen and consolidate disciplinary and licensure procedures for the licensed health and health-related professions and businesses by providing a uniform disciplinary act with standardized procedures for the licensure of health care professionals and 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.

It is also the intent of the legislature that all health and health-related professions newly credentialed by the state come under the Uniform Disciplinary Act.

Further, the legislature declares that the addition of public members on all health care commissions and 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. [1994 sp.s. c 9 § 601; 1991 c 332 § 1; 1986 c 259 § 1; 1984 c 279 § 1.]

Additional notes found at www.leg.wa.gov

18.130.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Commission" means any of the commissions specified in RCW 18.130.040.

(4) "Department" means the department of health.

(5) "Disciplinary action" means sanctions identified in RCW 18.130.160.

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

(7) "Health agency" means city and county health departments and the department of health.

(8) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020.

(9) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, or an assessment of the conditions, circumstances, and methods of the professional's practice related to the complaint, to determine whether unprofessional conduct may have been committed.

(10) "Secretary" means the secretary of health or the secretary's designee.

(11) "Standards of practice" means the care, skill, and learning associated with the practice of a profession.

(12) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 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 RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so. [2008 c 134 § 2; 1995 c 336 § 1; 1994 sp.s. c 9 § 602; 1989 1st ex.s. c 9 § 312; 1986 c 259 § 2; 1984 c 279 § 2.]

Alphabetization—2008 c 134 § 2: "The code reviser is directed to put the defined terms in RCW 18.130.020 in alphabetical order." [2008 c 134 § 39.]

Finding—Intent—2008 c 134: "From statehood, Washington has constitutionally provided for the regulation of the practice of medicine and the sale of drugs and medicines. This constitutional recognition of the importance of regulating health care practitioners derives not from providers' financial interest in their license, but from the greater need to protect the public health and safety by assuring that the health care providers and medicines that society relies upon meet certain standards of quality.

The legislature finds that the issuance of a license to practice as a health care provider should be a means to promote quality and not be a means to provide financial benefit for providers. Statutory and administrative requirements provide sufficient due process protections to prevent the unwarranted revocation of a health care provider's license. While those due process protections must be maintained, there is an urgent need to return to the original constitutional mandate that patients be ensured quality from their health care providers. The legislature has recognized and medical malpractice reforms have recognized the importance of quality and patient safety through such measures as a new adverse events reporting system. Reforms to the health care provider licensing system is another step toward improving quality in health care. Therefore, the legislature intends to increase the authority of those engaged in the regulation of health care providers to swiftly identify and remove health care providers who pose a risk to the public." [2008 c 134 § 1.]

Severability—2008 c 134: "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." [2008 c 134 § 38.]

Additional notes found at www.leg.wa.gov

18.130.035 Background check activities—Fees. In accordance with RCW 43.135.055, to implement the background check activities conducted pursuant to RCW 18.130.064, the department may establish fees as necessary to recover the cost of these activities and, except as precluded by RCW 43.70.110, the department shall require applicants to submit the required fees along with other information required by the state patrol. [2008 c 285 § 12.]

Intent—Captions not law—Effective date—2008 c 285: See notes following RCW 43.22.434.

18.130.037 Application and renewal fees. In accordance with RCW 43.135.055, the department may annually increase application and renewal fees as necessary to recover the cost of implementing the administrative and disciplinary provisions of chapter 134, Laws of 2008. [2008 c 285 § 13.]

Intent—Captions not law—Effective date—2008 c 285: See notes following RCW 43.22.434.

18.130.039 Licensee not required to participate in third-party reimbursement program. No licensee subject to this chapter may be required to participate in any public or private third-party reimbursement program or any plans or products offered by a payor as a condition of licensure. [2013 c 293 § 5.]

18.130.040 Application to certain professions—Authority of secretary—Grant or denial of licenses—Procedural rules. (Effective until July 1, 2017.) (1) This chapter applies only to the secretary and the boards and commissions 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 secretary has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;
- (ii) Midwives licensed under chapter 18.50 RCW;
- (iii) Ocularists licensed under chapter 18.55 RCW;
- (iv) Massage practitioners and businesses licensed under chapter 18.108 RCW;
- (v) Dental hygienists licensed under chapter 18.29 RCW;
- (vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;
- (vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
- (viii) Respiratory care practitioners licensed under chapter 18.89 RCW;
- (ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;
- (x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—-independent clinical under chapter 18.225 RCW;
- (xi) Persons registered as nursing pool operators under chapter 18.52C RCW;
- (xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;
- (xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;
- (xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;
- (xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;
- (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;
- (xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;
- (xviii) Surgical technologists registered under chapter 18.215 RCW;
- (xix) Recreational therapists under chapter 18.230 RCW;
- (xx) Animal massage practitioners certified under chapter 18.240 RCW;
- (xxi) Athletic trainers licensed under chapter 18.250 RCW;
- (xxii) Home care aides certified under chapter 18.88B RCW;
- (xxiii) Genetic counselors licensed under chapter 18.290 RCW;

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(xxiv) Reflexologists certified under chapter 18.108 RCW; and

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW.

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

- (i) The podiatric medical board as established in chapter 18.22 RCW;
 - (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
 - (iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;
 - (iv) The board of hearing and speech as established in chapter 18.35 RCW;
 - (v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
 - (vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
 - (vii) 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;
 - (viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;
 - (ix) The medical quality assurance commission as established in chapter 18.71 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 18.59 RCW;
 - (xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;
 - (xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;
 - (xiv) The veterinary board of governors as established in chapter 18.92 RCW;
 - (xv) The board of naturopathy established in chapter 18.36A RCW; and
 - (xvi) The board of denturists established in chapter 18.30 RCW.
- (3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.
- (4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section. [2013 c 171 § 8; 2013 c 19 § 45. Prior: 2012 c 208 § 10; 2012 c 153 § 17; 2012 c 153 § 16; 2012 c 137 § 19; 2012 c 23 § 6; 2011 c 41 § 11; prior: 2010 c 286 § 18; (2010 c 286 § 17 expired August 1, 2010); (2010 c 286 § 16 expired July 1, 2010); 2010 c 65 § 3; (2010 c 65 § 2 expired August 1, 2010); (2010 c 65 § 1 expired July 1, 2010); prior: 2009 c 302 § 14; 2009 c 301 § 8; 2009 c 52 §

2; 2009 c 52 § 1; 2009 c 2 § 16 (Initiative Measure No. 1029, approved November 4, 2008); 2008 c 134 § 18; (2008 c 134 § 17 expired July 1, 2008); prior: 2007 c 269 § 17; 2007 c 253 § 13; 2007 c 70 § 11; 2004 c 38 § 2; prior: 2003 c 275 § 2; 2003 c 258 § 7; prior: 2002 c 223 § 6; 2002 c 216 § 11; 2001 c 251 § 27; 1999 c 335 § 10; 1998 c 243 § 16; prior: 1997 c 392 § 516; 1997 c 334 § 14; 1997 c 285 § 13; 1997 c 275 § 2; prior: 1996 c 200 § 32; 1996 c 81 § 5; prior: 1995 c 336 § 2; 1995 c 323 § 16; 1995 c 260 § 11; 1995 c 1 § 19 (Initiative Measure No. 607, approved November 8, 1994); prior: 1994 sp.s. c 9 § 603; 1994 c 17 § 19; 1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810; prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

Reviser's note: This section was amended by 2013 c 19 § 45 and by 2013 c 171 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2013 c 171 § 8: "Section 8 of this act takes effect July 1, 2016." [2013 c 171 § 10.]

Effective date—2013 c 19 § 45: "Section 45 of this act takes effect July 1, 2016." [2013 c 19 § 129.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Effective date—2012 c 153 §§ 15 and 17: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Effective date—2010 c 286 § 18: "Section 18 of this act takes effect August 1, 2010." [2010 c 286 § 22.]

Expiration date—2010 c 286 § 17: "Section 17 of this act expires August 1, 2010." [2010 c 286 § 21.]

Effective date—2010 c 286 § 17: "Section 17 of this act takes effect July 1, 2010." [2010 c 286 § 20.]

Expiration date—2010 c 286 § 16: "Section 16 of this act expires July 1, 2010." [2010 c 286 § 19.]

Intent—2010 c 286: See RCW 18.06.005.

Effective date—2010 c 65 § 3: "Section 3 of this act takes effect August 1, 2010." [2010 c 65 § 9.]

Expiration date—2010 c 65 § 2: "Section 2 of this act expires August 1, 2010." [2010 c 65 § 8.]

Effective date—2010 c 65 § 2: "Section 2 of this act takes effect July 1, 2010." [2010 c 65 § 7.]

Expiration date—2010 c 65 § 1: "Section 1 of this act expires July 1, 2010." [2010 c 65 § 6.]

Effective date—Implementation—2009 c 302: See RCW 18.290.900 and 18.290.901.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Effective date—2009 c 52 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009." [2009 c 52 § 3.]

Effective date—2009 c 52 § 2: "Section 2 of this act takes effect July 1, 2010." [2009 c 52 § 4.]

Contingent effective date—2009 c 2 (Initiative Measure No. 1029) § 16: "Section 16 of this act takes effect if section 18, chapter 134, Laws of 2008 is signed into law by April 6, 2008." [2009 c 2 § 24 (Initiative Measure No. 1029, approved November 4, 2008).]

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

Effective date—2008 c 134 § 18: "Section 18 of this act takes effect July 1, 2008." [2008 c 134 § 37.]

Expiration date—2008 c 134 § 17: "Section 17 of this act expires July 1, 2008." [2008 c 134 § 36.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

Effective date—Implementation—2007 c 253: See RCW 18.250.901 and 18.250.902.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Intent—Purpose—1997 c 285: See RCW 18.200.005.

Additional notes found at www.leg.wa.gov

18.130.040 Application to certain professions—Authority of secretary—Grant or denial of licenses—Procedural rules. (Effective July 1, 2017.) (1) This chapter applies only to the secretary and the boards and commissions 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 secretary has authority under this chapter in relation to the following professions:

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage therapists and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;

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

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—-independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW.

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

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

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

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

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

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

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

(vii) 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;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 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 18.59 RCW;

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

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

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

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(xv) The board of naturopathy established in chapter 18.36A RCW; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section. [2016 c 41 § 18; 2015 c 118 § 13. Prior: 2013 c 171 § 8; 2013 c 19 § 45; prior: 2012 c 208 § 10; 2012 c 153 § 17; 2012 c 153 § 16; 2012 c 137 § 19; 2012 c 23 § 6; 2011 c 41 § 11; prior: 2010 c 286 § 18; (2010 c 286 § 17 expired August 1, 2010); (2010 c 286 § 16 expired July 1, 2010); 2010 c 65 § 3; (2010 c 65 § 2 expired August 1, 2010); (2010 c 65 § 1 expired July 1, 2010); prior: 2009 c 302 § 14; 2009 c 301 § 8; 2009 c 52 § 2; 2009 c 52 § 1; 2009 c 2 § 16 (Initiative Measure No. 1029, approved November 4, 2008); 2008 c 134 § 18; (2008 c 134 § 17 expired July 1, 2008); prior: 2007 c 269 § 17; 2007 c 253 § 13; 2007 c 70 § 11; 2004 c 38 § 2; prior: 2003 c 275 § 2; 2003 c 258 § 7; prior: 2002 c 223 § 6; 2002 c 216 § 11; 2001 c 251 § 27; 1999 c 335 § 10; 1998 c 243 § 16; prior: 1997 c 392 § 516; 1997 c 334 § 14; 1997 c 285 § 13; 1997 c 275 § 2; prior: 1996 c 200 § 32; 1996 c 81 § 5; prior: 1995 c 336 § 2; 1995 c 323 § 16; 1995 c 260 § 11; 1995 c 1 § 19 (Initiative Measure No. 607, approved November 8, 1994); prior: 1994 sp.s. c 9 § 603; 1994 c 17 § 19; 1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810; prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

Effective date—2013 c 171 § 8: "Section 8 of this act takes effect July 1, 2016." [2013 c 171 § 10.]

Effective date—2013 c 19 § 45: "Section 45 of this act takes effect July 1, 2016." [2013 c 19 § 129.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Effective date—2012 c 153 §§ 15 and 17: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Effective date—2010 c 286 § 18: "Section 18 of this act takes effect August 1, 2010." [2010 c 286 § 22.]

Expiration date—2010 c 286 § 17: "Section 17 of this act expires August 1, 2010." [2010 c 286 § 21.]

Effective date—2010 c 286 § 17: "Section 17 of this act takes effect July 1, 2010." [2010 c 286 § 20.]

Expiration date—2010 c 286 § 16: "Section 16 of this act expires July 1, 2010." [2010 c 286 § 19.]

Intent—2010 c 286: See RCW 18.06.005.

Effective date—2010 c 65 § 3: "Section 3 of this act takes effect August 1, 2010." [2010 c 65 § 9.]

Expiration date—2010 c 65 § 2: "Section 2 of this act expires August 1, 2010." [2010 c 65 § 8.]

Effective date—2010 c 65 § 2: "Section 2 of this act takes effect July 1, 2010." [2010 c 65 § 7.]

Expiration date—2010 c 65 § 1: "Section 1 of this act expires July 1, 2010." [2010 c 65 § 6.]

Effective date—Implementation—2009 c 302: See RCW 18.290.900 and 18.290.901.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Effective date—2009 c 52 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009." [2009 c 52 § 3.]

Effective date—2009 c 52 § 2: "Section 2 of this act takes effect July 1, 2010." [2009 c 52 § 4.]

Contingent effective date—2009 c 2 (Initiative Measure No. 1029) § 16: "Section 16 of this act takes effect if section 18, chapter 134, Laws of 2008 is signed into law by April 6, 2008." [2009 c 2 § 24 (Initiative Measure No. 1029, approved November 4, 2008).]

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

Effective date—2008 c 134 § 18: "Section 18 of this act takes effect July 1, 2008." [2008 c 134 § 37.]

Expiration date—2008 c 134 § 17: "Section 17 of this act expires July 1, 2008." [2008 c 134 § 36.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

Effective date—Implementation—2007 c 253: See RCW 18.250.901 and 18.250.902.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Intent—Purpose—1997 c 285: See RCW 18.200.005.

Additional notes found at www.leg.wa.gov

18.130.045 Massage practitioners—Procedures governing convicted prostitutes. RCW 18.108.085 shall govern the issuance and revocation of licenses issued or applied for under chapter 18.108 RCW to or by persons convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances. [1995 c 353 § 3.]

18.130.050 Authority of disciplining authority. Except as provided in RCW 18.130.062, 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;
- (3) To hold hearings as provided in this chapter;
- (4) To issue subpoenas and administer oaths in connection with any investigation, consideration of an application for license, hearing, or proceeding held under this chapter;
- (5) 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;
- (6) To compel attendance of witnesses at hearings;
- (7) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews and to issue citations and assess fines for failure to produce docu-

ments, records, or other items in accordance with RCW 18.130.230;

(8) To take emergency action ordering summary suspension of a license, or restriction or limitation of the license holder's practice pending proceedings by the disciplining authority. Within fourteen days of a request by the affected license holder, the disciplining authority must provide a show cause hearing in accordance with the requirements of RCW 18.130.135. In addition to the authority in this subsection, a disciplining authority shall, except as provided in RCW 9.97.020:

(a) Consistent with RCW 18.130.370, issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed;

(b) Consistent with RCW 18.130.400, issue a summary suspension of the license or temporary practice permit if, under RCW 74.39A.051, the license holder is prohibited from employment in the care of vulnerable adults based upon a department of social and health services' final finding of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult. The summary suspension remains in effect until proceedings by the disciplining authority have been completed;

(9) To conduct show cause hearings in accordance with RCW 18.130.062 or 18.130.135 to review an action taken by the disciplining authority to suspend a license or restrict or limit a license holder's practice pending proceedings by the disciplining authority;

(10) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. Disciplining authorities identified in RCW 18.130.040(2) shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer. Disciplining authorities identified in RCW 18.130.040(2)(b) may not delegate the final decision regarding disposition of the license or imposition of sanctions to a presiding officer in any case pertaining to standards of practice or where clinical expertise is necessary, including deciding any motion that results in dismissal of any allegation contained in the statement of charges. Presiding officers acting on behalf of the secretary shall enter initial orders. The secretary may, by rule, provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified time period:

(a) The secretary upon his or her own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for administrative review of the initial order;

(11) To use individual members of the boards to direct investigations and to authorize the issuance of a citation under subsection (7) of this section. However, the member of

the board shall not subsequently participate in the hearing of the case;

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

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

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

(15) 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. After January 1, 2009, all sanctions must be issued in accordance with RCW 18.130.390;

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

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

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

(19) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a license holder's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3). [2016 c 81 § 13. Prior: 2013 c 109 § 1; 2013 c 86 § 2; 2008 c 134 § 3; 2006 c 99 § 4; 1995 c 336 § 4; prior: 1993 c 367 § 21; 1993 c 367 § 5; 1987 c 150 § 2; 1984 c 279 § 5.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Effective date—2013 c 86: See note following RCW 18.130.400.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Additional notes found at www.leg.wa.gov

18.130.055 Authority of disciplining authority—Denial of applications. (1) The disciplining authority may deny an application for licensure or grant a license with conditions if the applicant:

(a) Has had his or her license to practice any health care profession suspended, revoked, or restricted, by competent authority in any state, federal, or foreign jurisdiction;

(b) Has committed any act defined as unprofessional conduct for a license holder under RCW 18.130.180, except as provided in RCW 9.97.020;

(c) Has been convicted or is subject to current prosecution or pending charges of a crime involving moral turpitude or a crime identified in RCW 43.43.830, except as provided in RCW 9.97.020. For purposes of this section, conviction includes all instances in which a plea of guilty or nolo conten-

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

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

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

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

(ii) An applicant governed by this chapter 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 grounds that the testimony or reports constitute privileged communications.

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

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

(4) A license applicant who is aggrieved by the decision to deny the license or grant the license with conditions has the right to an adjudicative proceeding. The application for adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, and be served on and received by the department within twenty-eight days of the decision. The license applicant has the burden to establish, by a preponderance of evidence, that the license applicant is qualified in accordance with the provisions of this chapter, the chapters identified in RCW 18.130.040(2), and the rules adopted by the disciplining authority. [2016 c 81 § 12; 2008 c 134 § 19.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.057 Disciplining authority—Duties—Documents. (1) A disciplining authority shall provide a person or entity making a complaint or report under RCW 18.130.080 with a reasonable opportunity to supplement or amend the

contents of the complaint or report. The license holder must be provided an opportunity to respond to any supplemental or amended complaint or report. The disciplining authority shall promptly respond to inquiries made by the license holder or the person or entity making a complaint or report regarding the status of the complaint or report.

(2)(a) Pursuant to chapter 42.56 RCW, following completion of an investigation or closure of a report or complaint, the disciplining authority shall, upon request, provide the license holder or the person or entity making the complaint or report with a copy of the file relating to the complaint or report, including, but not limited to, any response submitted by the license holder under RCW 18.130.095(1).

(b) The disciplining authority may not disclose documents in the file that:

(i) Contain confidential or privileged information regarding a patient other than the person making the complaint or report; or

(ii) Contain information exempt from public inspection and copying under chapter 42.56 RCW.

(c) The exemptions in (b) of this subsection are inapplicable to the extent that the relevant information can be deleted from the documents in question.

(d) The disciplining authority may impose a reasonable charge for copying the file consistent with the charges allowed for copying public records under RCW 42.56.120.

(3)(a) Prior to any final decision on any disciplinary proceeding before a disciplining authority, the disciplining authority shall provide the person submitting the complaint or report or his or her representative, if any, an opportunity to be heard through an oral or written impact statement about the effect of the person's injury on the person and his or her family and on a recommended sanction.

(b) If the license holder is not present at the disciplinary proceeding, the disciplining authority shall transmit the impact statement to the license holder, who shall certify to the disciplining authority that he or she has received it.

(c) For purposes of this subsection, representatives of the person submitting the complaint or report include his or her family members and such other affected parties as may be designated by the disciplining authority upon request.

(4) A disciplining authority shall inform, in writing, the license holder and person or entity submitting the complaint or report of the final disposition of the complaint or report.

(5)(a) If the disciplining authority closes a complaint or report prior to issuing a statement of charges under RCW 18.130.090 or a statement of allegations under RCW 18.130.172, the person or entity submitting the report may, within thirty days of receiving notice under subsection (4) of this section, request the disciplining authority to reconsider the closure of the complaint or report on the basis of new information relating to the original complaint or report. A request for reconsideration made under this subsection may only be brought in relation to the original complaint and may only be brought one time.

(b) The disciplining authority shall, within thirty days of receiving the request for reconsideration, notify the license holder of the request and the new information providing the basis therefor. The license holder has thirty days to provide a response. The disciplining authority shall notify the person or entity and the license holder in writing of its final decision on

the request for reconsideration, including an explanation of the reasoning behind the decision. [2011 c 157 § 1.]

18.130.060 Additional authority of secretary. In addition to the authority specified in RCW 18.130.050 and 18.130.062, the secretary has the following additional authority:

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

(2) Upon the request of a board or commission, to appoint pro tem members to participate as members of a panel of the board or commission in connection with proceedings specifically identified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or commission. Pro tem members appointed for matters under this chapter are appointed for a term of no more than one year. No pro tem member may serve more than four one-year terms. While serving as board or commission 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 or commission. The chairperson of a panel shall be a regular member of the board or commission appointed by the board or commission chairperson. Panels have authority to act as directed by the board or commission with respect to all matters subject to the jurisdiction of the board or commission and within the authority of the board or commission. The authority to act through panels does not restrict the authority of the board or commission to act as a single body at any phase of proceedings within the board's or commission's jurisdiction. Board or commission panels may issue final orders and decisions with respect to matters and cases delegated to the panel by the board or commission. Final decisions may be appealed as provided in chapter 34.05 RCW, the administrative procedure act;

(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 adjudicative proceeding as authorized by RCW 34.05.446;

(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;

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

(6) To adopt rules, in consultation with the disciplining authorities, requiring every license holder to report information identified in RCW 18.130.070. [2008 c 134 § 4; 2006 c

99 § 1; 2001 c 101 § 1; 1995 c 336 § 5; 1991 c 3 § 269; 1989 c 175 § 68; 1987 c 150 § 3; 1984 c 279 § 6.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Additional notes found at www.leg.wa.gov

18.130.062 Authority of secretary—Disciplinary process—Sexual misconduct—Victim interview training.

(1) With regard to complaints that only allege that a license holder has committed an act or acts of unprofessional conduct involving sexual misconduct, the secretary shall serve as the sole disciplining authority in every aspect of the disciplinary process, including initiating investigations, investigating, determining the disposition of the complaint, holding hearings, preparing findings of fact, issuing orders or dismissals of charges as provided in RCW 18.130.110, entering into stipulations permitted by RCW 18.130.172, or issuing summary suspensions under RCW 18.130.135. The board or commission shall review all cases and only refer to the secretary sexual misconduct cases that do not involve clinical expertise or standard of care issues.

(2) Beginning July 1, 2016, for all complaints alleging an act or acts of unprofessional conduct involving sexual misconduct, regardless of whether the secretary or a board or commission is the disciplining authority, all victim interviews conducted as part of an investigation must be conducted by a person who has successfully completed a training program on interviewing victims of sexual misconduct in a manner that minimizes the negative impacts on the victims. The training program may be provided by the disciplining authority, the department, or an outside entity. When determining the type of training that is appropriate to comply with this subsection, the disciplining authority shall consult with at least one statewide organization that provides information, training, and expertise to persons and entities who support victims, family and friends, the general public, and other persons whose lives have been affected by sexual assault. [2015 c 159 § 1; 2008 c 134 § 5.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.064 Authority and duties—Secretary and disciplining authority—Background checks.

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

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

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

(b) The secretary shall specify those situations where a background check under (a) of this subsection is inadequate and an applicant for an initial license must obtain an elec-

tronic fingerprint-based national background check through the state patrol and federal bureau of investigation. Situations where a background check is inadequate may include instances where an applicant has recently lived out of state or where the applicant has a criminal record in Washington. The secretary shall issue a temporary practice permit to an applicant who must have a national background check conducted if the background check conducted under (a) of this subsection does not reveal a criminal record in Washington, and if the applicant meets the provisions of RCW 18.130.075.

(3) In addition to the background check required in subsection (2) of this section, an investigation may include an examination of state and national criminal identification data. The disciplining authority shall use the information for determining eligibility for licensure or renewal. The disciplining authority may also use the information when determining whether to proceed with an investigation of a report under RCW 18.130.080. For a national criminal history records check, the department shall require fingerprints be submitted to and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

(4) The secretary shall adopt rules to require license holders to report to the disciplining authority any arrests, convictions, or other determinations or findings by a law enforcement agency occurring after June 12, 2008, for a criminal offense. The report must be made within fourteen days of the conviction.

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

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

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

(7) The department shall:

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

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

(c) Notify the applicant if their background check reveals a criminal record. Only when the background check reveals a criminal record will an applicant receive a notice. Upon receiving such a notice, the applicant may request and the department shall provide a copy of the record to the extent permitted under RCW 10.97.050, including making accessi-

ble to the applicant for their personal use and information any records of arrest, charges, or allegations of criminal conduct or other nonconviction data pursuant to RCW 10.97.050(4).

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

(9) There is established a unit within the department for the purpose of detection, investigation, and prosecution of any act prohibited or declared unlawful under this chapter. The secretary will employ supervisory, legal, and investigative personnel for the unit who must be qualified by training and experience. [2008 c 134 § 7.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.065 Rules, policies, and orders—Secretary's role. The secretary of health shall review and coordinate all proposed rules, interpretive statements, policy statements, and declaratory orders, as defined in chapter 34.05 RCW, that are proposed for adoption or issuance by any health profession board or commission vested with rule-making authority identified under RCW 18.130.040(2)(b). The secretary shall review the proposed policy statements and declaratory orders against criteria that include the effect of the proposed rule, statement, or order upon existing health care policies and practice of health professionals. Within thirty days of the receipt of a proposed rule, interpretive statement, policy statement, or declaratory order from the originating board or commission, the secretary shall inform the board or commission of the results of the review, and shall provide any comments or suggestions that the secretary deems appropriate. Emergency rule making is not subject to this review process. The secretary is authorized to adopt rules and procedures for the coordination and review under this section. [1995 c 198 § 26.]

18.130.070 Rules requiring reports—Court orders—Immunity from liability—Licensees required to report.

(1)(a) The secretary shall adopt rules requiring every license holder to report to the appropriate disciplining authority any conviction, determination, or finding that another license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the other 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.

(b) The secretary may adopt rules to require other persons, including corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by a disciplining authority, and state or local government agencies to report:

(i) Any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct; or

(ii) Information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, 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.

(c) If a report has been made by a hospital to the department pursuant to RCW 70.41.210 or by an ambulatory surgical facility pursuant to RCW 70.230.110, a report to the disciplining authority is not required. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(d) Reporting under this section is not required by:

(i) Any entity with a peer review committee, quality improvement committee or other similarly designated professional review committee, or by a license holder who is a member of such committee, during the investigative phase of the respective committee's operations if the investigation is completed in a timely manner; or

(ii) An impaired practitioner program or voluntary substance abuse monitoring program approved by a disciplining authority under RCW 18.130.175 if the license holder is currently enrolled in the treatment program, so long as the license holder actively participates in the treatment program and the license holder's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

(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 is a contempt of court as provided in chapter 7.21 RCW.

(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)(a) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority:

(i) Any conviction, determination, or finding that he or she has committed unprofessional conduct or is unable to practice with reasonable skill or safety; and

(ii) Any disqualification from participation in the federal medicare program, under Title XVIII of the federal social security act or the federal medicaid program, under Title XIX of the federal social security act.

(b) Failure to report within thirty days of notice of the conviction, determination, finding, or disqualification constitutes grounds for disciplinary action. [2007 c 273 § 23; 2006 c 99 § 2; 2005 c 470 § 2; 1998 c 132 § 8; 1989 c 373 § 19; 1986 c 259 § 4; 1984 c 279 § 7.]

Effective date—Implementation—2007 c 273: See RCW 70.230.900 and 70.230.901.

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.130.075 Temporary practice permits—Penalties.

(1) If an individual licensed in another state that has licensing standards substantially equivalent to Washington applies for a license, the disciplining authority shall issue a temporary practice permit authorizing the applicant to practice the profession pending completion of documentation that the applicant meets the requirements for a license and is also not subject to denial of a license or issuance of a conditional license under this chapter. The temporary permit may reflect statutory limitations on the scope of practice. The permit shall be issued only upon the disciplining authority receiving verification from the states in which the applicant is licensed that the applicant is currently licensed and is not subject to charges or disciplinary action for unprofessional conduct or impairment. Notwithstanding RCW 34.05.422(3), the disciplining authority shall establish, by rule, the duration of the temporary practice permits.

(2) Failure to surrender the temporary practice permit is a misdemeanor under RCW 9A.20.010 and shall be unprofessional conduct under this chapter.

(3) The issuance of temporary permits is subject to the provisions of this chapter, including summary suspensions. [2003 c 53 § 140; 1991 c 332 § 2.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

18.130.080 Unprofessional conduct—Complaint—Investigation—Civil penalty. (1)(a) An individual, an impaired practitioner program, or a voluntary substance abuse monitoring program approved by a disciplining authority, may submit a written complaint to the disciplining authority charging a license holder or applicant with unprofessional conduct and specifying the grounds therefor or to report information to the disciplining authority, or voluntary substance abuse monitoring program, or an impaired practitioner program approved by the disciplining authority, 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.

(b)(i) Every license holder, corporation, organization, health care facility, and state and local governmental agency that employs a license holder shall report to the disciplining authority when the employed license holder's services have been terminated or restricted based upon a final determination that the license holder has either committed an act or acts that may constitute unprofessional conduct or 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.

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

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

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

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

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

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

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

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

(2) If the disciplining authority determines that a complaint submitted under subsection (1) of this section 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. In determining whether or not to investigate, the disciplining authority shall consider any prior complaints received by the disciplining authority, any prior findings of fact under RCW 18.130.110, any stipulations to informal disposition under RCW 18.130.172, and any comparable action taken by other state disciplining authorities.

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

(a) The disciplining authority receives information that a health care provider has been disqualified from participating in the federal medicare program, under Title XVIII of the federal social security act, or the federal medicaid program, under Title XIX of the federal social security act; or

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

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

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

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

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

(b) Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. [2008 c 134 § 8; 2006 c 99 § 5; 1998 c 132 § 9; 1986 c 259 § 5; 1984 c 279 § 8.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.130.085 Communication with complainant. If the department communicates in writing to a complainant, or his or her representative, regarding his or her complaint, such communication shall not include the address or telephone number of the health care provider against whom he or she has complained. The department shall inform all applicants for a health care provider license of the provisions of this section and chapter 42.56 RCW regarding the release of address and telephone information. [2005 c 274 § 230; 1993 c 360 § 1.]

Additional notes found at www.leg.wa.gov

18.130.090 Statement of charge—Request for hearing. (1) If the disciplining authority determines, upon investigation, that there is reason to believe a violation of RCW 18.130.180 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. If the twenty-day limit results in a hardship upon the license holder or applicant, he or she may request for good cause an extension not to exceed sixty additional days. If the disciplining authority finds that there is good cause, it shall grant the extension. 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 the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant. [1993 c 367 § 1; 1986 c 259 § 6; 1984 c 279 § 9.]

Additional notes found at www.leg.wa.gov

18.130.095 Uniform procedural rules. (1)(a) The secretary, in consultation with the disciplining authorities, shall develop uniform procedural rules to respond to public inquiries concerning complaints and their disposition, active investigations, statement of charges, findings of fact, and final orders involving a license holder, applicant, or unlicensed person. The uniform procedural rules adopted under this subsection apply to all adjudicative proceedings conducted under this chapter and shall include provisions for establishing time periods for initial assessment, investigation, charging, discovery, settlement, and adjudication of complaints, and shall include enforcement provisions for violations of the specific time periods by the department, the disciplining authority, and the respondent. A license holder must be notified upon receipt of a complaint, except when the notification would impede an effective investigation. At the earliest point of time the license holder must be allowed to submit a written statement about that complaint, which statement

must be included in the file. Complaints filed after July 27, 1997, are exempt from public disclosure under chapter 42.56 RCW until the complaint has been initially assessed and determined to warrant an investigation by the disciplining authority. Complaints determined not to warrant an investigation by the disciplining authority are no longer considered complaints, but must remain in the records and tracking system of the department. Information about complaints that did not warrant an investigation, including the existence of the complaint, may be released only upon receipt of a written public disclosure request or pursuant to an interagency agreement as provided in (b) of this subsection. Complaints determined to warrant no cause for action after investigation are subject to public disclosure, must include an explanation of the determination to close the complaint, and must remain in the records and tracking system of the department.

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

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

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

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

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

(4) Upon delegation from the secretary, a presiding officer may conduct disciplinary proceedings for professions identified in RCW 18.130.040(2)(a). All functions performed by the presiding officer are subject to chapter 34.05 RCW. Decisions of the presiding officer are initial decisions subject to review by the secretary. The secretary shall adopt procedures for implementing this subsection.

(5) The uniform procedural rules shall be adopted by all disciplining authorities listed in RCW 18.130.040(2), and shall be used for all adjudicative proceedings conducted under this chapter, as defined by chapter 34.05 RCW. The uniform procedural rules shall address the use of a presiding officer authorized in subsections (3) and (4) of this section to

determine and issue decisions on all legal issues and motions arising during adjudicative proceedings. [2013 c 109 § 2; 2008 c 134 § 9; 2005 c 274 § 231; 1997 c 270 § 1; 1995 c 336 § 6; 1993 c 367 § 2.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Additional notes found at www.leg.wa.gov

18.130.098 Settlement—Disclosure—Conference.

(1) The settlement process must be substantially uniform for licensees governed by disciplining authorities under this chapter. The disciplinary [disciplining] authorities may also use alternative dispute resolution to resolve complaints during adjudicative proceedings.

(2) Disclosure of the identity of reviewing disciplining authority members who participate in the settlement process is available to the respondent or his or her representative upon request.

(3) The settlement conference will occur only if a settlement is not achieved through written documents. The respondent will have the opportunity to conference either by phone or in person with the reviewing disciplining authority member if the respondent chooses. The respondent may also have his or her attorney conference either by phone or in person with the reviewing disciplining authority member without the respondent being present personally.

(4) If the respondent wants to meet in person with the reviewing disciplining authority member, he or she will travel to the reviewing disciplining authority member and have such a conference with a department representative in attendance either by phone or in person. [1995 c 336 § 7; 1994 sp.s. c 9 § 604.]

Additional notes found at www.leg.wa.gov

18.130.100 Hearings—Adjudicative proceedings under chapter 34.05 RCW. The procedures governing adjudicative proceedings before agencies under chapter 34.05 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 34.05 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. [1989 c 175 § 69; 1984 c 279 § 10.]

Additional notes found at www.leg.wa.gov

18.130.110 Findings of fact—Order—Report. (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 chapter 34.05 RCW, the Administrative Procedure Act. 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 42.56 RCW. [2005 c 274 § 232; 1989 c 175 § 70; 1984 c 279 § 11.]

Additional notes found at www.leg.wa.gov

18.130.120 Actions against license—Exception. 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. [1984 c 279 § 12.]

18.130.125 License suspension—Nonpayment or default on educational loan or scholarship. The department shall suspend the license of any person who has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the department a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the department may impose. [1996 c 293 § 18.]

Additional notes found at www.leg.wa.gov

18.130.127 License suspension—Noncompliance with support order—Reissuance. The secretary shall immediately suspend the license of any person subject to this chapter who has been certified by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order as provided in RCW 74.20A.320. [1997 c 58 § 830.]

*Reviser's note: 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.130.130 Orders—When effective—Stay. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.05 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 disciplining authority or 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. [1986 c 259 § 7; 1984 c 279 § 13.]

Additional notes found at www.leg.wa.gov

18.130.135 Suspension or restriction orders—Show cause hearing. (1) Upon an order of a disciplining authority to summarily suspend a license, or restrict or limit a license holder's practice pursuant to RCW 18.130.050 or 18.130.062, the license holder is entitled to a show cause hearing before a panel or the secretary as identified in subsection (2) of this section within fourteen days of requesting a show cause hearing. The license holder must request the show cause hearing within twenty days of the issuance of the order. At the show cause hearing, the disciplining authority has the burden of demonstrating that more probable than not, the license holder poses an immediate threat to the public health and safety. The license holder must request a hearing regarding the statement of charges in accordance with RCW 18.130.090.

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

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

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

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

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

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

A full hearing must be provided within forty-five days of receipt of the request for a hearing, unless stipulated otherwise. [2008 c 134 § 6.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.140 Appeal. An individual who has been disciplined, whose license has been denied, or whose license has been granted with conditions by a disciplining authority may appeal the decision as provided in chapter 34.05 RCW. [2008 c 134 § 21; 1984 c 279 § 14.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.150 Reinstatement. A person whose license has been suspended under this chapter may petition the disciplining authority for reinstatement after an interval as determined by the disciplining authority in the order unless the disciplining authority has found, pursuant to RCW 18.130.160, that the licensee can never be rehabilitated or can never regain the ability to practice with reasonable skill and safety. 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 RCW 18.130.160 and issue an order of reinstatement. The disciplining authority may require successful completion of an examination as a condition of reinstatement.

A person whose license has been suspended for noncompliance with a support order or visitation order under RCW 74.20A.320 may petition for reinstatement at any time by providing the secretary a release issued by the department of social and health services stating that the person is in compliance with the order. If the person has continued to meet all other requirements for reinstatement during the suspension, the secretary shall automatically reissue the person's license upon receipt of the release, and payment of a reinstatement fee, if any. [2008 c 134 § 22; 1997 c 58 § 831; 1984 c 279 § 15.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.130.160 Finding of unprofessional conduct—Orders—Sanctions—Stay—Costs—Stipulations. Upon a finding, after hearing, that a license holder has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the disciplining authority shall issue an order including sanctions adopted in accordance with the schedule adopted under RCW 18.130.390 giving proper consideration to any prior findings of fact under RCW 18.130.110, any stipulations to informal disposition under RCW 18.130.172, and any action taken by other in-state or out-of-state disciplining authorities. The order must provide for one or any combination of the following, as directed by the schedule, except as provided in RCW 9.97.020:

(1) Revocation of the license;

- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation of the practice;
- (4) Requiring the satisfactory completion of a specific program of remedial education or treatment;
- (5) The monitoring of the 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 five thousand dollars per violation. Funds received shall be placed in the health professions account;
- (9) Denial of the license request;
- (10) Corrective action;
- (11) Refund of fees billed to and collected from the consumer;
- (12) A surrender of the practitioner's license in lieu of other sanctions, which must be reported to the federal data bank.

Any of the actions under this section may be totally or partly stayed by the disciplining authority. Safeguarding the public's health and safety is the paramount responsibility of every disciplining authority. In determining what action is appropriate, the disciplining authority must consider the schedule adopted under RCW 18.130.390. Where the schedule allows flexibility in determining the appropriate sanction, 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. All costs associated with compliance with orders issued under this section are the obligation of the license holder. The disciplining authority may order permanent revocation of a license if it finds that the license holder can never be rehabilitated or can never regain the ability to practice with reasonable skill and safety.

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

The disciplining authority may determine that a case presents unique circumstances that the schedule adopted under RCW 18.130.390 does not adequately address. The disciplining authority may deviate from the schedule adopted under RCW 18.130.390 when selecting appropriate sanctions, but the disciplining authority must issue a written explanation of the basis for not following the schedule.

The license holder may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the license holder has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or inability to practice, or a statement by the license holder acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct or inability to practice. The stipulation entered into pursuant to this subsection shall be considered formal disciplinary action for all purposes. [2016 c 81 § 18; 2008 c 134 § 10. Prior: 2006 c 99 § 6; 2006 c 8 § 104;

(2016 Ed.)

2001 c 195 § 1; 1993 c 367 § 6; 1986 c 259 § 8; 1984 c 279 § 16.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Additional notes found at www.leg.wa.gov

18.130.165 Enforcement of fine. Where an order for payment of a fine is made as a result of a citation under RCW 18.130.230 or a hearing under RCW 18.130.100 or 18.130.190 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. [2008 c 134 § 23; 1993 c 367 § 20; 1987 c 150 § 4.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Additional notes found at www.leg.wa.gov

18.130.170 Capacity of license holder to practice—Hearing—Mental or physical examination—Implied consent. (1) If the disciplining authority believes a license holder 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 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 to practice with reasonable skill and safety. If the disciplining authority determines that the license holder 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)(a) In investigating or adjudicating a complaint or report that a license holder 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 to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the disciplining authority. The license holder shall be provided written notice of the disciplining authority's intent to order a mental or physical examination, which notice shall include: (i) A statement of the specific conduct, event, or circumstances justifying an examination; (ii) a summary of the evidence supporting the disciplining authority's concern that the license holder may be unable to practice with reasonable skill and safety by reason of a mental or physical condition, and the grounds for believing such evidence to be credible and reliable; (iii) a statement of the nature, purpose, scope, and content of the intended examination; (iv) a statement that

the license holder has the right to respond in writing within twenty days to challenge the disciplining authority's grounds for ordering an examination or to challenge the manner or form of the examination; and (v) a statement that if the license holder timely responds to the notice of intent, then the license holder will not be required to submit to the examination while the response is under consideration.

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

(c) Upon receipt by the disciplining authority of the written decision, or upon the failure of the license holder to timely respond to the notice of intent, the disciplining authority may issue an order requiring the license holder to undergo a mental or physical examination. All such mental or physical examinations shall be narrowly tailored to address only the alleged mental or physical condition and the ability of the license holder to practice with reasonable skill and safety. An order of the disciplining authority requiring the license holder to undergo a mental or physical examination is not a final order for purposes of appeal. 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 license holder may submit physical or mental examination reports from licensed or certified health professionals of the license holder's choosing and expense.

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

until such time as the license holder complies with the properly ordered mental or physical examination.

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

(f) A determination by a court of competent jurisdiction that a license holder is mentally incompetent or an individual with mental illness is presumptive evidence of the license holder's inability to practice with reasonable skill and safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity, at his or her expense, 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, a 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. [2008 c 134 § 11; 1995 c 336 § 8; 1987 c 150 § 6; 1986 c 259 § 9; 1984 c 279 § 17.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Additional notes found at www.leg.wa.gov

18.130.172 Evidence summary and stipulations. (1) Prior to serving a statement of charges under RCW 18.130.090 or 18.130.170, the disciplinary [disciplining] authority may furnish a statement of allegations to the licensee along with a detailed summary of the evidence relied upon to establish the allegations and a proposed stipulation for informal resolution of the allegations. These documents shall be exempt from public disclosure until such time as the allegations are resolved either by stipulation or otherwise.

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

(3) If the licensee declines to agree to disposition of the charges by means of a stipulation pursuant to subsection (2) of this section, the disciplinary [disciplining] authority may proceed to formal disciplinary action pursuant to RCW 18.130.090 or 18.130.170.

(4) Upon execution of a stipulation under subsection (2) of this section by both the licensee and the disciplinary [disciplining] authority, the complaint is deemed disposed of and shall become subject to public disclosure on the same basis and to the same extent as other records of the disciplinary [disciplining] authority. Should the licensee fail to pay any agreed reimbursement within thirty days of the date specified in the stipulation for payment, the disciplinary [disciplining] authority may seek collection of the amount agreed to be paid in the same manner as enforcement of a fine under RCW 18.130.165. [2008 c 134 § 24; 2000 c 171 § 29; 1993 c 367 § 7.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.175 Voluntary substance abuse monitoring programs. (1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of substance abuse, the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program approved by the disciplining authority.

The cost of the treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. Primary alcoholism or other drug addiction treatment shall be provided by approved treatment programs under *RCW 70.96A.020 or by any other provider approved by the entity or the commission. However, nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or other drug addiction treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160 which includes suspension of the license unless or until the disciplining authority, in consultation with the director of the voluntary substance abuse monitoring program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplinary [disciplining] authority of a relapse or program violation on the part of a license holder in the substance abuse monitoring program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplinary [disciplining] authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving substance abuse monitoring programs that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority

for substance abuse. License holders voluntarily participating in the approved programs without being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The substance abuse program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

(4) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from chapter 42.56 RCW, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from chapter 42.56 RCW and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(6) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

(7) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section and the persons entitled to immunity shall include:

- (i) An approved monitoring treatment program;
- (ii) The professional association operating the program;
- (iii) Members, employees, or agents of the program or association;
- (iv) Persons reporting a license holder as being possibly impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the impaired license holder's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on clients and their attorneys whose allegations under this subsection are not made in good faith and are without either reasonable objective, substantive grounds, or both.

(c) The immunity provided in this section is in addition to any other immunity provided by law. [2006 c 99 § 7; 2005 c 274 § 233; 1998 c 132 § 10; 1993 c 367 § 3; 1991 c 3 § 270; 1988 c 247 § 2.]

*Reviser's note: RCW 70.96A.020 was repealed by 2016 1st sp.s. c 29 § 301, effective April 1, 2018.

Effective date—2006 c 99 § 7: "Section 7 of this act takes effect July 1, 2006." [2006 c 99 § 11.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Legislative intent—1988 c 247: "Existing law does not provide for a program for rehabilitation of health professionals whose competency may be impaired due to the abuse of alcohol and other drugs.

It is the intent of the legislature that the disciplining authorities seek ways to identify and support the rehabilitation of health professionals whose practice or competency may be impaired due to the abuse of drugs or alcohol. The legislature intends that such health professionals be treated so that they can return to or continue to practice their profession in a way which safeguards the public. The legislature specifically intends that the disciplining authorities establish an alternative program to the traditional administrative proceedings against such health professionals." [1988 c 247 § 1.]

Additional notes found at www.leg.wa.gov

18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder 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. 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 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 malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

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

conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by *RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances 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, documents, records, or other items;

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

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

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

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

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

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

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

(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 willful 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 willful 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, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

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

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards. [2010 c 9 § 5; 2008 c 134 § 25; 1995 c 336 § 9; 1993 c 367 § 22. Prior: 1991 c 332 § 34; 1991 c 215 § 3; 1989 c 270 § 33; 1986 c 259 § 10; 1984 c 279 § 18.]

*Reviser's note: RCW 18.130.345 was repealed by 2015 c 205 § 5.

Intent—2010 c 9: See note following RCW 69.50.315.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Additional notes found at www.leg.wa.gov

18.130.185 Injunctive relief for violations of RCW 18.130.170 or 18.130.180. If a person or business regulated by this chapter violates RCW 18.130.170 or 18.130.180, the attorney general, any prosecuting attorney, the secretary, 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. [1993 c 367 § 8; 1987 c 150 § 8; 1986 c 259 § 15.]

Additional notes found at www.leg.wa.gov

18.130.186 Voluntary substance abuse monitoring program—Content—License surcharge. (1) To implement a substance abuse monitoring program for license holders specified under RCW 18.130.040, who are impaired by substance abuse, the disciplinary [disciplining] authority may enter into a contract with a voluntary substance abuse program under RCW 18.130.175. The program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired license holders to treatment programs;

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(e) Monitoring the treatment and rehabilitation of impaired license holders including those ordered by the disciplinary [disciplining] authority;

(f) Providing education, prevention of impairment, post-treatment monitoring, and support of rehabilitated impaired license holders; and

(g) Performing other activities as agreed upon by the disciplinary [disciplining] authority.

(2) A contract entered into under subsection (1) of this section may be financed by a surcharge on each license issuance or renewal to be collected by the department of health from the license holders of the same regulated health profession. These moneys shall be placed in the health professions account to be used solely for the implementation of the program. [1993 c 367 § 9; 1989 c 125 § 3.]

18.130.190 Practice without license—Investigation of complaints—Cease and desist orders—Injunctions—Penalties. (1) The secretary shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the secretary shall have the same authority as provided the secretary under RCW 18.130.050.

(2) The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed practice of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. The person to whom such notice is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intention to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(3) If the secretary makes a final determination that a person has engaged or is engaging in unlicensed practice, the secretary may issue a cease and desist order. In addition, the secretary may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed practice of a business or profession for which a license is required by one or more of the chapters specified in RCW 18.130.040. The proceeds of such fines shall be deposited to the health professions account.

(4) If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine.

(5) Neither the issuance of a cease and desist order nor payment of a civil fine shall 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 or civil fine shall be in addition to any criminal liability. The

cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(6) The attorney general, a county prosecuting attorney, the secretary, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a 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.

(7)(a) Unlicensed practice of a profession 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 for a single violation.

(b) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony punishable according to chapter 9A.20 RCW.

(8) 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. [2003 c 53 § 141; 2001 c 207 § 2. Prior: 1995 c 285 § 35; 1993 c 367 § 19; 1991 c 3 § 271; prior: 1989 c 373 § 20; 1989 c 175 § 71; 1987 c 150 § 7; 1986 c 259 § 11; 1984 c 279 § 19.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—2001 c 207: "The purpose of this act is to respond to *State v. Thomas*, 103 Wn. App. 800, by reenacting and ranking, without changes, legislation relating to the crime of unlicensed practice of a profession or a business, enacted as section 35, chapter 285, Laws of 1995." [2001 c 207 § 1.]

Additional notes found at www.leg.wa.gov

18.130.195 Violation of injunction—Penalty. 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. [1987 c 150 § 5.]

Additional notes found at www.leg.wa.gov

18.130.200 Fraud or misrepresentation in obtaining or maintaining a license—Penalty. A person who attempts to obtain, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor. [1997 c 392 § 517; 1986 c 259 § 12; 1984 c 279 § 20.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Additional notes found at www.leg.wa.gov

18.130.210 Crime by license holder—Notice to attorney general or county prosecuting attorney. If the disciplining authority determines or has cause to believe that a license holder has committed a crime, the disciplining authority, immediately subsequent to issuing findings of fact and a final order, shall 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. [1986 c 259 § 13; 1984 c 279 § 22.]

Additional notes found at www.leg.wa.gov

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

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

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

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

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

(b) A statement of the specific circumstances;

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

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

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

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

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

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

(6) The disciplining authority shall establish and make available to licensees the maximum daily monetary fine that

may be issued under subsection (2)(c) of this section. The disciplining authority shall review the maximum fine on a regular basis, but at a minimum, each biennium. [2008 c 134 § 20.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.250 Retired active license status. The disciplining authority may adopt rules pursuant to this section authorizing a retired active license status. An individual credentialed by a disciplining authority regulated in the state under RCW 18.130.040, who is practicing only in emergent or intermittent circumstances as defined by rule established by the disciplining authority, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250 or, for a physician regulated pursuant to chapter 18.71 RCW who resides and practices in Washington and holds a retired active license, at no renewal fee. Except as provided in RCW 18.71.080, such a license shall meet the continuing education or continued competency requirements, if any, established by the disciplining authority for renewals, and is subject to the provisions of this chapter. Individuals who have entered into retired status agreements with the disciplinary [disciplining] authority in any jurisdiction shall not qualify for a retired active license under this section. [2009 c 403 § 3; 1991 c 229 § 1.]

Finding—Intent—2009 c 403: See note following RCW 18.71.080.

18.130.270 Continuing competency pilot projects. The disciplinary [disciplining] authorities are authorized to develop and require licensees' participation in continuing competency pilot projects for the purpose of developing flexible, cost-efficient, effective, and geographically accessible competency assurance methods. The secretary shall establish criteria for development of pilot projects and shall select the disciplinary [disciplining] authorities that will participate from among the professions requesting participation. The department shall administer the projects in mutual cooperation with the disciplinary [disciplining] authority and shall allot and administer the budget for each pilot project. The department shall report to the legislature in January of each odd-numbered year concerning the progress and findings of the projects and shall make recommendations on the expansion of continued competency requirements to other licensed health professions.

Each disciplinary [disciplining] authority shall establish its pilot project in rule and may support the projects from a surcharge on each of the affected profession's license renewal in an amount established by the secretary. [1991 c 332 § 3.]

Additional notes found at www.leg.wa.gov

18.130.300 Immunity from liability. (1) The secretary, members of the boards or commissions, 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.

(2) A voluntary substance abuse monitoring program or an impaired practitioner program approved by a disciplining authority, or individuals acting on their behalf, are immune from suit in a civil action based on any disciplinary proceedings or other official acts performed in the course of their

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duties. [1998 c 132 § 11; 1994 sp.s. c 9 § 605; 1993 c 367 § 10; 1984 c 279 § 21.]

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Additional notes found at www.leg.wa.gov

18.130.310 Biennial report—Contents—Format. (1) Subject to RCW 40.07.040, the disciplinary [disciplining] authority shall submit a biennial report to the legislature on its proceedings during the biennium, detailing the number of complaints made, investigated, and adjudicated and manner of disposition. In addition, the report must provide data on the department's background check activities conducted under RCW 18.130.064 and the effectiveness of those activities in identifying potential license holders who may not be qualified to practice safely. The report must summarize the distribution of the number of cases assigned to each attorney and investigator for each profession. The identity of the attorney and investigator must remain anonymous. The report may include recommendations for improving the disciplinary process, including proposed legislation. The department shall develop a uniform report format.

(2) Each disciplining authority identified in RCW 18.130.040(2)(b) may submit a biennial report to complement the report required under subsection (1) of this section. Each report may provide additional information about the disciplinary activities, rule-making and policy activities, and receipts and expenditures for the individual disciplining authority. [2009 c 518 § 22; 2008 c 134 § 13; 1989 1st ex.s. c 9 § 313; 1987 c 505 § 5; 1984 c 279 § 23.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Additional notes found at www.leg.wa.gov

18.130.340 Opiate therapy guidelines. The secretary of health shall coordinate and assist the regulatory boards and commissions of the health professions with prescriptive authority in the development of uniform guidelines for addressing opiate therapy for acute pain, and chronic pain associated with cancer and other terminal diseases, or other chronic or intractable pain conditions. The purpose of the guidelines is to assure the provision of effective medical treatment in accordance with recognized national standards and consistent with requirements of the public health and safety. [1995 c 336 § 10.]

18.130.350 Application—Use of records or exchange of information not affected. This chapter does not affect the use of records, obtained from the secretary or the disciplining authorities, in any existing investigation or action by any state agency. Nor does this chapter limit any existing exchange of information between the secretary or the disciplining authorities and other state agencies. [1997 c 270 § 3.]

18.130.360 Retired volunteer medical worker license—Supervision—Rules. (1) As used in this section, "emergency or disaster" has the same meaning as in RCW 38.52.010.

(2) The secretary shall issue a retired volunteer medical worker license to any applicant who:

(a) Has held an active license issued by a disciplining authority under RCW 18.130.040 no more than ten years prior to applying for an initial license under this section;

(b) Does not have any current restrictions on the ability to obtain a license for violations of this chapter; and

(c) Submits proof of registration as a volunteer with a local organization for emergency services or management as defined by chapter 38.52 RCW.

(3) License holders under this section must be supervised and may practice only those duties that correspond to the scope of their emergency worker assignment not to exceed their scope of practice prior to retirement.

(4) The department shall adopt rules and policies to implement this section.

(5) The department shall establish standards for the renewal of licenses issued under this section, including continuing competency requirements.

(6) License holders under this section are subject to the provisions of this chapter as they may apply to the issuance and denial of credentials, unauthorized practice, and discipline for acts of unprofessional conduct.

(7) Nothing in this section precludes a health care professional who holds an active license from providing medical services during an emergency or disaster.

(8) The cost of regulatory activities for license holders under this section must be borne in equal proportion by all health care providers holding a license issued by a disciplining authority under RCW 18.130.040. [2006 c 72 § 1.]

18.130.370 Prohibition on practicing in another state—Prohibited from practicing in this state until proceedings of appropriate disciplining authority are completed. Any individual who applies for a license or temporary practice permit or holds a license or temporary practice permit and is prohibited from practicing a health care profession in another state because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040 is prohibited from practicing a health care profession in this state until proceedings of the appropriate disciplining authority have been completed under RCW 18.130.050. [2006 c 99 § 3.]

18.130.390 Sanctioning schedule—Development. (1) Each of the disciplining authorities identified in RCW 18.130.040(2)(b) shall appoint a representative to review the secretary's sanctioning guidelines, as well as guidelines adopted by any of the boards and commissions, and collaborate to develop a schedule that defines appropriate ranges of sanctions that are applicable upon a determination that a license holder has committed unprofessional conduct as defined in this chapter or the chapters specified in RCW 18.130.040(2). The schedule must identify aggravating and mitigating circumstances that may enhance or reduce the sanction imposed by the disciplining authority for unprofessional conduct. The schedule must apply to all disciplining authorities. In addition, the disciplining authorities shall make provisions for instances in which there are multiple findings of unprofessional conduct. When establishing the proposed schedule, the disciplining authorities shall consider maintaining consistent sanction determinations that maxi-

mize the protection of the public's health and while maintaining the rights of health care providers of the different health professions. The disciplining authorities shall submit the proposed schedule and recommendations to modify or adopt the secretary's guidelines to the secretary no later than November 15, 2008.

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

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

(4) The secretary shall report to the legislature by January 15, 2009, on the adoption of the sanctioning schedule. [2008 c 134 § 12.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.400 Abuse of vulnerable adult—Prohibition on practice. Any individual who applies for a license or temporary practice permit or holds a license or temporary practice permit and has a final finding issued by the department of social and health services of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult is prohibited from practicing a health care profession in this state until proceedings of the appropriate disciplining authority have been completed under RCW 18.130.050. [2013 c 86 § 1.]

Effective date—2013 c 86: "This act takes effect January 1, 2014." [2013 c 86 § 3.]

18.130.410 Collecting blood samples without consent under direction of law enforcement. It is not professional misconduct for a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under *chapter 18.135 RCW; or medical assistant-certified or medical assistant- phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, to collect a blood sample without a person's consent when the physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician

assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under *chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood was directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances: PROVIDED, That nothing in this section shall relieve a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under *chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood from professional discipline arising from the use of improper procedures or from failing to exercise the required standard of care. [2015 2nd sp.s. c 3 § 21.]

*Reviser's note: Chapter 18.135 RCW was repealed by 2012 c 153 § 20.

Finding—Intent—2015 2nd sp.s. c 3: See note following RCW 10.21.055.

18.130.900 Short title—Applicability. (1) This chapter shall be known and cited as the uniform disciplinary act.

(2) This chapter applies to any conduct, acts, or conditions occurring on or after June 11, 1986.

(3) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to June 11, 1986. Such conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted. [1986 c 259 § 14; 1984 c 279 § 24.]

Additional notes found at www.leg.wa.gov

18.130.901 Severability—1984 c 279. 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. [1984 c 279 § 95.]

Chapter 18.138 RCW DIETITIANS AND NUTRITIONISTS

Sections

18.138.010	Definitions.
18.138.020	Certification required.
18.138.030	Qualifications for certification.
18.138.040	Certification—Application procedures, requirements, fees.
18.138.050	Certification without examination.
18.138.060	Renewal of certification—Fee.

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18.138.070	Authority of secretary.
18.138.090	Application of uniform disciplinary act.
18.138.100	Insurance coverage.
18.138.110	Health food stores exempted.

18.138.010 Definitions. (1) "Dietetics" is the integration and application of scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences in counseling people to achieve and maintain health. Unique functions of dietetics include, but are not limited to:

(a) Assessing individual and community food practices and nutritional status using anthropometric, biochemical, clinical, dietary, and demographic data for clinical, research, and program planning purposes;

(b) Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;

(c) Providing nutrition counseling and education as components of preventive, curative, and restorative health care;

(d) Developing, implementing, managing, and evaluating nutrition care systems; and

(e) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.

(2) "General nutrition services" means the counseling and/or educating of groups or individuals in the selection of food to meet normal nutritional needs for health maintenance, which includes, but is not restricted to:

(a) Assessing the nutritional needs of individuals and groups by planning, organizing, coordinating, and evaluating the nutrition components of community health care services;

(b) Supervising, administering, or teaching normal nutrition in colleges, universities, clinics, group care homes, nursing homes, hospitals, private industry, and group meetings.

(3) "Certified dietitian" means any person certified to practice dietetics under this chapter.

(4) "Certified nutritionist" means any person certified to provide general nutrition services under this chapter.

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

(6) "Secretary" means the secretary of health or the secretary's designee. [1991 c 3 § 278; 1988 c 277 § 1.]

18.138.020 Certification required. (1) No persons shall represent themselves as certified dietitians or certified nutritionists unless certified as provided for in this chapter.

(2) Persons represent themselves as certified dietitians or certified nutritionists when any title or any description of services is used which incorporates one or more of the following items or designations: "Certified dietitian," "certified dietitian," "certified nutritionist," "D.," "C.D.," or "C.N."

(3) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is certified under this chapter. [1991 c 3 § 279; 1988 c 277 § 2.]

18.138.030 Qualifications for certification. (1) An applicant applying for certification as a certified dietitian or certified nutritionist shall file a written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require, and proof

that the candidate has met qualifications set forth below in subsection (2) or (3) of this section.

(2) Any person seeking certification as a "certified dietitian" shall meet the following qualifications:

- (a) Be eighteen years of age or older;
- (b) Has satisfactorily completed a major course of study in human nutrition, foods and nutrition, dietetics, or food systems management, and has received a baccalaureate or higher degree from a college or university accredited by the Western association of schools and colleges or a similar accreditation agency or colleges and universities approved by the secretary in rule;
- (c) Demonstrates evidence of having successfully completed a planned continuous preprofessional experience in dietetic practice of not less than nine hundred hours under the supervision of a certified dietitian or a registered dietitian or demonstrates completion of a coordinated undergraduate program in dietetics, both of which meet the training criteria established by the secretary;
- (d) Has satisfactorily completed an examination for dietitians administered by a public or private agency or institution recognized by the secretary as qualified to administer the examination; and
- (e) Has satisfactorily completed courses of continuing education as currently established by the secretary.

(3) An individual may be certified as a certified dietitian if he or she provides evidence of meeting criteria for registration on June 9, 1988, by the commission on dietetic registration.

(4) Any person seeking certification as a "certified nutritionist" shall meet the following qualifications:

- (a) Possess the qualifications required to be a certified dietitian; or
- (b) Has received a master's degree or doctorate degree in one of the following subject areas: Human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by the Western association of schools and colleges or a similar accrediting agency or colleges and universities approved by the secretary in rule. [1991 c 3 § 280; 1988 c 277 § 3.]

18.138.040 Certification—Application procedures, requirements, fees. (1) If the applicant meets the qualifications as outlined in RCW 18.138.030(2), the secretary shall confer on such candidates the title certified dietitian.

(2) If the applicant meets the qualifications as outlined in RCW 18.138.030(4), the secretary shall confer on such candidates the title certified nutritionist.

(3) Applicants for certification as a certified dietitian or certified nutritionist shall comply with administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280. [1996 c 191 § 84; 1991 c 3 § 281; 1988 c 277 § 4.]

18.138.050 Certification without examination. The secretary may certify a person applying for the title "certified dietitian" without examination if such person is licensed or certified as a dietitian in another jurisdiction and if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state. [1991 c 3 § 282; 1988 c 277 § 6.]

18.138.060 Renewal of certification—Fee. (1) Every person certified as a certified dietitian or certified nutritionist shall renew the certification according to administrative procedures, administrative requirements, and fees determined by the secretary as provided in RCW 43.70.250 and 43.70.280.

(2) All fees collected under this section shall be credited to the health professions account as required. [1996 c 191 § 85; 1991 c 3 § 283; 1988 c 277 § 7.]

18.138.070 Authority of secretary. In addition to any other authority provided by law, the secretary may:

- (1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;
- (2) Establish forms necessary to administer this chapter;
- (3) Issue a certificate to an applicant who has met the requirements for certification and deny a certificate to an applicant who does not meet the minimum qualifications;
- (4) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those certified under this chapter, to serve as consultants as necessary to implement and administer this chapter;
- (5) Maintain the official departmental record of all applicants and certificate holders;
- (6) Conduct a hearing, pursuant to chapter 34.05 RCW, on an appeal of a denial of certification based on the applicant's failure to meet the minimum qualifications for certification;
- (7) Investigate alleged violations of this chapter and consumer complaints involving the practice of persons representing themselves as certified dietitians or certified nutritionists;
- (8) Issue subpoenas, statements of charges, statements of intent to deny certifications, and orders and delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements on intent to deny certifications;
- (9) Conduct disciplinary proceedings, impose sanctions, and assess fines for violations of this chapter or any rules adopted under it in accordance with chapter 34.05 RCW;
- (10) Set all certification, renewal, and late renewal fees in accordance with RCW 43.70.250; and
- (11) Set certification expiration dates and renewal periods for all certifications under this chapter. [1999 c 151 § 301; 1994 sp.s. c 9 § 516; 1991 c 3 § 284; 1988 c 277 § 10.]

Additional notes found at www.leg.wa.gov

18.138.090 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of certificates, unauthorized practices, and the disciplining of certificate holders under this chapter. The secretary shall be the disciplining authority under this chapter. [1991 c 3 § 286; 1988 c 277 § 5.]

18.138.100 Insurance coverage. This chapter does not require or prohibit individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization to provide benefits or coverage for services and supplies provided by a person certified under this chapter. [1988 c 277 § 9.]

18.138.110 Health food stores exempted. Nothing in this chapter shall be construed to apply to owners, operators

or employees of health food stores provided the owners, operators or employees do not represent themselves to be certified dietitians or certified nutritionists. [1988 c 277 § 11.]

Chapter 18.140 RCW
CERTIFIED REAL ESTATE APPRAISER ACT

Sections

- 18.140.005 Intent.
- 18.140.010 Definitions.
- 18.140.020 Use of title by unauthorized person.
- 18.140.030 Powers and duties of director.
- 18.140.040 Immunity.
- 18.140.050 Fees and collection procedures.
- 18.140.060 Applications—Original and renewal certification, licensure, or registration.
- 18.140.070 Categories of appraisers.
- 18.140.080 Education requirements.
- 18.140.090 Experience requirements.
- 18.140.100 Examination requirements.
- 18.140.110 Nonresident applicants—Consent for service of process.
- 18.140.120 Reciprocity.
- 18.140.130 Expiration of certificate, license, or registration—Renewal—Failure to renew in timely manner.
- 18.140.140 Certificate, license, or registration—Required use of number.
- 18.140.150 Use of term restricted—Group certificates, licenses, or registrations prohibited.
- 18.140.155 Temporary certification or licensing—Extension.
- 18.140.160 Disciplinary actions—Grounds.
- 18.140.170 Violations—Investigations.
- 18.140.190 Duties of attorney general.
- 18.140.200 Certificate, license, or registration suspension—Nonpayment or default on educational loan or scholarship.
- 18.140.202 Certificate, license, or registration suspension—Noncompliance with support order—Reissuance.
- 18.140.210 Violation of chapter—Procedure.
- 18.140.220 Acting without certificate, license, or registration—Penalty.
- 18.140.230 Real estate appraiser commission—Establishment—Composition.
- 18.140.240 Commission/members—Duties and responsibilities.
- 18.140.250 Commission member's compensation.
- 18.140.260 Real estate appraiser commission account.
- 18.140.270 Uniform regulation of business and professions act.
- 18.140.280 Trainee real estate appraiser—Registration.
- 18.140.290 Military training or experience.
- 18.140.900 Short title.

18.140.005 Intent. (1) It is the intent of the legislature that only individuals who meet and maintain minimum standards of competence and conduct established under this chapter for certified, licensed, or registered real estate appraisers may provide real estate appraisal services to the public.

(2) It is the further intent of the legislature to provide for the proper supervision and training of new entrants to the appraiser profession through the implementation of the state-registered appraiser trainee classification. [2005 c 339 § 1; 1996 c 182 § 1; 1993 c 30 § 1; 1989 c 414 § 1.]

Additional notes found at www.leg.wa.gov

18.140.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of or pertaining to appraising and related functions.

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the value of specified interests

in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(3) "Appraisal report" means any communication, written or oral, of an appraisal, review, or consulting service in accordance with the standards of professional conduct or practice, adopted by the director, that is transmitted to the client upon completion of an assignment.

(4) "Brokers price opinion" means an oral or written report of property value that is prepared by a real estate broker or salesperson licensed under chapter 18.85 RCW.

(5) "Client" means any party for whom an appraiser performs a service.

(6) "Commission" means the real estate appraiser commission of the state of Washington.

(7) "Comparative market analysis" means a brokers price opinion.

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

(9) "Director" means the director of the department of licensing.

(10) "Expert review appraiser" means a state-certified or state-licensed real estate appraiser chosen by the director for the purpose of providing appraisal review assistance to the director.

(11) "Federal department" means an executive department of the United States of America specifically concerned with housing finance issues, such as the department of housing and urban development, the department of veterans affairs, or their legal federal successors.

(12) "Federal financial institutions regulatory agency" means the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, the national credit union administration, their successors and/or such other agencies as may be named in future amendments to 12 U.S.C. Sec. 3350(6).

(13) "Federal secondary mortgage marketing agency" means the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, their successors and/or such other similarly functioning housing finance agencies as may be federally chartered in the future.

(14) "Federally related transaction" means any real estate-related financial transaction that the federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for, or regulates; and that requires the services of an appraiser.

(15) "Financial institution" means any person doing business under the laws of this state or the United States relating to banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, and the affiliates, subsidiaries, and service corporations thereof.

(16) "Mortgage broker" for the purpose of this chapter means a mortgage broker licensed under chapter 19.146 RCW, any mortgage broker approved and subject to audit by the federal national mortgage association, the government national mortgage association, or the federal home loan mortgage corporation as provided in RCW 19.146.020, any mortgage broker approved by the United States secretary of housing and urban development for participation in any mortgage insurance under the national housing act, 12 U.S.C. Sec.

1201, and the affiliates, subsidiaries, and service corporations thereof.

(17) "Real estate" means an identified parcel or tract of land, including improvements, if any.

(18) "Real estate-related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof;

(b) The refinancing of real property or interests in real property; and

(c) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(19) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

(20) "Review" means the act or process of critically studying an appraisal report prepared by another.

(21) "Specialized appraisal services" means all appraisal services that do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

(22) "State-certified general real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of property. A state-certified general real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(23) "State-certified residential real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value as specified in rules adopted by the director. A state-certified residential real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

(24) "State-licensed real estate appraiser" means a person licensed by the director to develop and communicate real estate appraisals of noncomplex one to four residential units and complex one to four residential units and nonresidential property having transaction values as specified in rules adopted by the director.

(25) "State-registered appraiser trainee," "trainee," or "trainee real estate appraiser" means a person registered by the director under RCW 18.140.280 to develop and communicate real estate appraisals under the immediate and personal direction of a state-certified real estate appraiser. Appraisals are limited to those types of properties that the supervisory appraiser is permitted by their current credential, and that the supervisory appraiser is competent and qualified to appraise. By signing the appraisal report, or being identified in the certification or addenda as having lent significant professional assistance, the state-registered appraiser trainee accepts total and complete individual responsibility for all content, analyses, and conclusions in the report.

(26) "Supervisory appraiser" means a person holding a currently valid certificate issued by the director as a state-certified real estate appraiser providing direct supervision to another state-certified, state-licensed, or state-registered appraiser trainee. The supervisory appraiser must be in good standing in each jurisdiction that he or she is credentialed. The supervisory appraiser must sign all appraisal reports. By signing the appraisal report, the supervisory appraiser accepts full responsibility for all content, analyses, and conclusions in the report. [2016 c 144 § 1; 2005 c 339 § 2; 2000 c 249 § 1; 1997 c 399 § 1; 1996 c 182 § 2; 1993 c 30 § 2; 1989 c 414 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

18.140.020 Use of title by unauthorized person. (1) No person other than a state-certified or state-licensed real estate appraiser may receive compensation of any form for a real estate appraisal or an appraisal review, except that a state-registered appraiser trainee may receive compensation from one or more supervisory appraisers or the supervisory appraiser's employer for appraisal assignments.

(2) Compensation may be provided for brokers price opinions prepared by a real estate licensee, licensed under chapter 18.85 RCW.

(3) No person, other than a state-certified, state-licensed real estate appraiser, or a state-registered appraiser trainee may assume or use that title or any title, designation, or abbreviation likely to create the impression of certification, licensure, or registration as a real estate appraiser by this state.

(4) A person who is not certified, licensed, or registered under this chapter shall not prepare any appraisal of real estate located in this state, except as provided under subsection (2) of this section.

(5) This section does not preclude a staff employee of a governmental entity from performing an appraisal or an appraisal assignment within the scope of his or her employment insofar as the performance of official duties for the governmental entity are concerned. Such an activity for the benefit of the governmental entity is exempt from the requirements of this chapter.

(6) This chapter does not preclude an individual person licensed by the state of Washington as a real estate broker or as a real estate salesperson from issuing a brokers price opinion. However, if the brokers price opinion is written, or given as evidence in any legal proceeding, and is issued to a person who is not a prospective seller, buyer, lessor, or lessee as the only intended user, then the brokers price opinion shall contain a statement, in an obvious location within the written document or specifically and affirmatively in spoken testimony, that substantially states: "This brokers price opinion is not an appraisal as defined in chapter 18.140 RCW and has been prepared by a real estate licensee, licensed under chapter 18.85 RCW, who (is/is not) also state-certified or state-licensed as a real estate appraiser under chapter 18.140 RCW." However, the brokers price opinion issued under this subsection may not be used as an appraisal in conjunction with a federally related transaction.

(7) This section does not apply to an appraisal or an appraisal review performed for a financial institution or mortgage broker by an employee or third party, when such appraisal or appraisal review is not required to be performed by a state-certified or state-licensed real estate appraiser by the appropriate federal financial institutions regulatory agency.

(8) This section does not apply to an attorney licensed to practice law in this state or to a certified public accountant, as defined in RCW 18.04.025, who evaluates real property in the normal scope of his or her professional services. [2005 c 339 § 3; 1998 c 120 § 1; 1997 c 399 § 2; 1996 c 182 § 3; 1993 c 30 § 3; 1989 c 414 § 4.]

Additional notes found at www.leg.wa.gov

18.140.030 Powers and duties of director. The director shall have the following powers and duties:

(1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter and chapter 18.235 RCW, with the advice and approval of the commission;

(2) To receive and approve or deny applications for certification or licensure as a state-certified or state-licensed real estate appraiser and for registration as a state-registered appraiser trainee under this chapter; to establish appropriate administrative procedures for the processing of such applications; to issue certificates, licenses, or registrations to qualified applicants pursuant to the provisions of this chapter; and to maintain a roster of the names and addresses of individuals who are currently certified, licensed, or registered under this chapter;

(3) To provide administrative assistance to the members of and to keep records for the real estate appraiser commission;

(4) To solicit bids and enter into contracts with educational testing services or organizations for the preparation of questions and answers for certification or licensure examinations;

(5) To administer or contract for administration of certification or licensure examinations at locations and times as may be required to carry out the responsibilities under this chapter;

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

(7) To consider recommendations by the real estate appraiser commission relating to the experience, education, and examination requirements for each classification of state-certified appraiser and for licensure;

(8) To consider recommendations by the real estate appraiser commission relating to the educational requirements for the state-registered appraiser trainee classification;

(9) To consider recommendations by the real estate appraiser commission relating to the maximum number of state-registered appraiser trainees that each supervisory appraiser will be permitted to supervise;

(10) To consider recommendations by the real estate appraiser commission relating to continuing education requirements as a prerequisite to renewal of certification or licensure;

(11) To consider recommendations by the real estate appraiser commission relating to standards of professional

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appraisal conduct or practice in the enforcement of this chapter;

(12) To employ such professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

(13) To establish forms necessary to administer this chapter;

(14) To establish an expert review appraiser roster comprised of state-certified or licensed real estate appraisers whose purpose is to assist the director by applying their individual expertise by reviewing real estate appraisals for compliance with this chapter. Qualifications to act as an expert review appraiser shall be established by the director with the advice of the commission. An application to serve as an expert review appraiser shall be submitted to the real estate appraiser program, and the roster of accepted expert review appraisers shall be maintained by the department. An expert review appraiser may be added to or deleted from that roster by the director. The expert review appraiser shall be reimbursed for expenses in the same manner as the department reimburses the commission; and

(15) To do all other things necessary to carry out the provisions of this chapter and minimally meet the requirements of federal guidelines regarding state certification or licensure of appraisers and registration of state-registered appraiser trainees that the director determines are appropriate for state-certified and state-licensed appraisers and state-registered appraiser trainees in this state. [2005 c 339 § 4; 2002 c 86 § 238; 2000 c 249 § 2; 1996 c 182 § 4; 1993 c 30 § 4; 1989 c 414 § 7.]

Additional notes found at www.leg.wa.gov

18.140.040 Immunity. The director or individuals acting on behalf of the director are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct. [1993 c 30 § 5; 1989 c 414 § 8.]

18.140.050 Fees and collection procedures. The director shall establish fees by rule, under RCW 43.24.086 and chapter 34.05 RCW and establish collection procedures for the fees. [1989 c 414 § 9.]

18.140.060 Applications—Original and renewal certification, licensure, or registration. (1) Applications for examinations, original certification, licensure, or registration, and renewal certification, licensure, or registration shall be made in writing to the department on forms approved by the director. Applications for original and renewal certification, licensure, or registration shall include a statement confirming that the applicant shall comply with applicable rules and regulations and that the applicant understands the penalties for misconduct.

(2) The appropriate fees shall accompany all applications for examination, reexamination, original certification, licensure, or registration, and renewal certification, licensure, or registration. [2005 c 339 § 5; 1993 c 30 § 6; 1989 c 414 § 10.]

Additional notes found at www.leg.wa.gov

18.140.070 Categories of appraisers. There shall be two categories of state-certified real estate appraisers, one category of state-licensed real estate appraisers, and one category of state-registered appraiser trainee as follows:

- (1) The state-certified general real estate appraiser;
- (2) The state-certified residential real estate appraiser;
- (3) The state-licensed real estate appraiser; and
- (4) The state-registered appraiser trainee. [2005 c 339 § 6; 1993 c 30 § 7; 1989 c 414 § 11.]

Additional notes found at www.leg.wa.gov

18.140.080 Education requirements. As a prerequisite to taking an examination for certification or licensure, an applicant shall present evidence satisfactory to the director that he or she has successfully completed the education requirements adopted by the director. [1993 c 30 § 8; 1989 c 414 § 12.]

18.140.090 Experience requirements. (1) As a prerequisite to taking an examination for certification or licensure, an applicant must meet the experience requirements adopted by the director.

(2) The preexamination experience claimed by an applicant, and accepted by the department for the purpose of taking the examination, shall remain subject to postlicensure auditing by the department. [1996 c 182 § 5; 1993 c 30 § 9; 1989 c 414 § 13.]

Additional notes found at www.leg.wa.gov

18.140.100 Examination requirements. An original certificate or license shall be issued to persons who have satisfactorily passed the written examination as endorsed by the Appraiser Qualifications Board of the Appraisal Foundation and as adopted by the director. [2005 c 339 § 7; 1993 c 30 § 10; 1989 c 414 § 14.]

Additional notes found at www.leg.wa.gov

18.140.110 Nonresident applicants—Consent for service of process. Every applicant for certification, licensing, or registration who is not a resident of this state shall submit, with the application for certification, licensing, or registration an irrevocable consent that service of process upon him or her may be made by service on the director if, in an action against the applicant in a court of this state arising out of the applicant's activities as a state-certified or state-licensed real estate appraiser or state-registered appraiser trainee, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the applicant. [2005 c 339 § 8; 1993 c 30 § 11; 1989 c 414 § 15.]

Additional notes found at www.leg.wa.gov

18.140.120 Reciprocity. An applicant for certification or licensure who is currently certified or licensed and in good standing under the laws of another state may obtain a certificate or license as a Washington state-certified or state-licensed real estate appraiser without being required to satisfy the examination requirements of this chapter if the director determines that: The appraiser licensing and certification program of the other state is in compliance with 12 U.S.C. Secs. 3331-3355, as existed on June 9, 2016, or such subsequent date as the director may provide by rule, consistent with the

purposes of this section; and the other state's requirements for certification or licensing meet or exceed the licensure standards established in this chapter. [2016 c 144 § 2; 2005 c 339 § 9; 1993 c 30 § 12; 1989 c 414 § 16.]

Additional notes found at www.leg.wa.gov

18.140.130 Expiration of certificate, license, or registration—Renewal—Failure to renew in timely manner.

(1) Each original and renewal certificate, license, or registration issued under this chapter shall expire on the applicant's second birthday following issuance of the certificate, license, or registration.

(2) To be renewed as a state-certified or state-licensed real estate appraiser or state-registered appraiser trainee, the holder of a valid certificate, license, or registration shall apply and pay the prescribed fee to the director no earlier than one hundred twenty days prior to the expiration date of the certificate, license, or registration and shall demonstrate satisfaction of any continuing education requirements.

(3) If a person fails to renew a certificate, license, or registration prior to its expiration and no more than one year has passed since the person last held a valid certificate, license, or registration, the person may obtain a renewal certificate, license, or registration by satisfying all of the requirements for renewal and paying late renewal fees.

The director shall cancel the certificate, license, or registration of any person whose renewal fee is not received within one year from the date of expiration. A person may obtain a new certificate, license, or registration by satisfying the procedures and qualifications for initial certification, licensure, or registration, including the successful completion of any applicable examinations. [2005 c 339 § 10; 1996 c 182 § 6; 1993 c 30 § 13; 1989 c 414 § 17.]

Additional notes found at www.leg.wa.gov

18.140.140 Certificate, license, or registration—Required use of number.

(1) A certificate, license, or registration issued under this chapter shall bear the signature or facsimile signature of the director and a certificate, license, or registration number assigned by the director.

(2) Each state-certified or state-licensed real estate appraiser or state-registered appraiser trainee shall place his or her certificate, license, or registration number adjacent to or immediately below the title "state-certified general real estate appraiser," "state-certified residential real estate appraiser," "state-licensed real estate appraiser," or "state-registered appraiser trainee" when used in an appraisal report or in a contract or other instrument used by the certificate holder, licensee, or registered appraiser trainee in conducting real property appraisal activities, except that the certificate, license, or registration number shall not be required to appear when the title is not accompanied by a signature as is typical on such promotional and stationery items as brochures, business cards, forms, or letterhead.

(3) Each state-registered appraiser trainee shall place his or her registration number adjacent to or immediately below the title "state-registered appraiser trainee" when used in an appraisal report and the supervisory appraiser shall place his or her certificate number adjacent to or immediately below the title "state-certified general real estate appraiser" or

"state-certified residential real estate appraiser." [2005 c 339 § 11; 1996 c 182 § 7; 1993 c 30 § 14; 1989 c 414 § 18.]

Additional notes found at www.leg.wa.gov

18.140.150 Use of term restricted—Group certificates, licenses, or registrations prohibited. (1) The term "state-certified real estate appraiser," "state-licensed real estate appraiser," or "state-registered appraiser trainee" may only be used to refer to individuals who hold the certificate, license, or registration and may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, group, or limited liability company, or in such manner that it might be interpreted as referring to a firm, partnership, corporation, group, limited liability company, or anyone other than an individual holder of the certificate, license, or registration.

(2) No certificate, license, or registration may be issued under this chapter to a corporation, partnership, firm, limited liability company, or group. This shall not be construed to prevent a state-certified or state-licensed appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, group practice, or limited liability company, nor may it be construed to prevent a state-registered appraiser trainee from signing an appraisal report under the supervision of a state-certified real estate appraiser on behalf of a corporation, partnership, firm, group practice, or limited liability company. [2005 c 339 § 12; 1996 c 182 § 8; 1993 c 30 § 15; 1989 c 414 § 19.]

Additional notes found at www.leg.wa.gov

18.140.155 Temporary certification or licensing—Extension. (1) A real estate appraiser from another state who is certified or licensed by another state may apply for registration to receive temporary certification or licensing in Washington by paying a fee and filing a notarized application with the department on a form provided by the department.

(2) The director is authorized to adopt by rule the term or duration of the certification and licensing privileges granted under the provisions of this section. Certification or licensing shall not be renewed. However, an applicant may receive an extension of a temporary practice permit to complete an assignment, provided that a written request is received by the department prior to the expiration date, stating the reason for the extension.

(3) A temporary practice permit issued under this section allows an appraiser to perform independent appraisal services required by a contract for appraisal services.

(4) Persons granted temporary certification or licensing privileges under this section shall not advertise or otherwise hold themselves out as being certified or licensed by the state of Washington.

(5) Persons granted temporary certification or licensure are subject to all provisions under this chapter. [2005 c 339 § 13; 2001 c 78 § 1; 1993 c 30 § 16.]

Additional notes found at www.leg.wa.gov

18.140.160 Disciplinary actions—Grounds. In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following conduct, acts, or conditions:

(1) Failing to meet the minimum qualifications for state certification, licensure, or registration established by or pursuant to this chapter;

(2) Paying money other than the fees provided for by this chapter to any employee of the director or the commission to procure state certification, licensure, or registration under this chapter;

(3) Continuing to act as a state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee when his or her certificate, license, or registration is on an expired status;

(4) Violating any provision of this chapter or any lawful rule made by the director pursuant thereto;

(5) Issuing an appraisal report on any real property in which the appraiser has an interest unless his or her interest is clearly stated in the appraisal report;

(6) Being affiliated as an employer, independent contractor, or supervisory appraiser of a state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee whose certification, license, or registration is currently in a suspended or revoked status;

(7) Failure or refusal without good cause to exercise reasonable diligence in performing an appraisal practice under this chapter, including preparing an oral or written report to communicate information concerning an appraisal practice; and

(8) Negligence or incompetence in performing an appraisal practice under this chapter, including preparing an oral or written report to communicate information concerning an appraisal practice. [2007 c 256 § 1; 2005 c 339 § 14; 2002 c 86 § 239; 2000 c 35 § 1; 1996 c 182 § 9; 1993 c 30 § 17; 1989 c 414 § 20.]

Additional notes found at www.leg.wa.gov

18.140.170 Violations—Investigations. The director may investigate the actions of a state-certified or state-licensed real estate appraiser or a state-registered appraiser trainee or an applicant for certification, licensure, or registration or recertification, relicensure, or reregistration. Upon receipt of information indicating that a state-certified or state-licensed real estate appraiser or state-registered appraiser trainee under this chapter may have violated this chapter, the director may cause one or more of the staff investigators to make an investigation of the facts to determine whether or not there is admissible evidence of any such violation. If technical assistance is required, a staff investigator may consult with one or more of the members of the commission. [2005 c 339 § 15; 2002 c 86 § 240; 1996 c 182 § 10; 1993 c 30 § 18; 1989 c 414 § 21.]

Additional notes found at www.leg.wa.gov

18.140.190 Duties of attorney general. The attorney general shall render to the director opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof that may be submitted by the director, and shall act as attorney for the director in all actions and proceedings brought by or against the director under or pursuant to any provisions of this chapter. [1993 c 30 § 21; 1989 c 414 § 23.]

18.140.200 Certificate, license, or registration suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the certificate, license, or registration of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate, license, or registration shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification, licensure, or registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [2005 c 339 § 16; 1996 c 293 § 19.]

Additional notes found at www.leg.wa.gov

18.140.202 Certificate, license, or registration suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend any certificate, license, or registration issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the certificate, license, or registration shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [2005 c 339 § 17; 1997 c 58 § 832.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.140.210 Violation of chapter—Procedure. The director may refer a complaint for violation of any section of this chapter before any court of competent jurisdiction.

Any violation of the provisions of this chapter shall be prosecuted by the prosecuting attorney of each county in which the violation occurs, and if the prosecuting attorney fails to act, the director may request the attorney general to take action in lieu of the prosecuting attorney.

Whenever evidence satisfactory to the director suggests that any person has violated any of the provisions of this chapter, or any part or provision thereof, the director may bring an action, in the superior court in the county where the person resides, against the person to enjoin any person from continuing a violation or engaging or doing any act or acts in furtherance thereof. In this action an order or judgment may be entered awarding a preliminary or final injunction as may be proper.

The director may petition the superior court in any county in this state for the appointment of a receiver to take over, operate, or close any real estate appraisal activity or practice in this state which is found upon inspection of its

books and records to be operating in violation of the provisions of this chapter, pending a hearing. [1996 c 182 § 11.]

Additional notes found at www.leg.wa.gov

18.140.220 Acting without certificate, license, or registration—Penalty. Any person acting as a state-certified or state-licensed real estate appraiser or state-registered appraiser trainee without a certificate, license, or registration that is currently valid is guilty of a misdemeanor. [2005 c 339 § 18; 1996 c 182 § 12.]

Additional notes found at www.leg.wa.gov

18.140.230 Real estate appraiser commission—Establishment—Composition. There is established the real estate appraiser commission of the state of Washington, consisting of seven members who shall act to give advice to the director.

(1) The seven commission members shall be appointed by the director in the following manner: For a term of six years each, with the exception of the first appointees who shall be the incumbent members of the predecessor real estate appraiser advisory committee to serve for the duration of their current terms, with all other subsequent appointees to be appointed for a six-year term.

(2) At least two of the commission members shall be selected from the area of the state east of the Cascade mountain range and at least two of the commission members shall be selected from the area of the state west of the Cascade mountain range. At least two members of the commission shall be certified general real estate appraisers, at least two members of the commission shall be certified residential real estate appraisers, and at least one member of the commission may be a licensed real estate appraiser, all pursuant to this chapter. No certified or licensed appraiser commission member shall be appointed who has not been certified and/or licensed pursuant to this chapter for less than ten years, except that this experience duration shall be not less than five years only for any commission member taking office before January 1, 2003. One member shall be an employee of a financial institution as defined in this chapter whose duties are concerned with real estate appraisal management and policy. One member shall be an individual engaged in mass appraisal whose duties are concerned with ad valorem appraisal management and policy and who is licensed or certified under this chapter. One member may be a member of the general public.

(3) The members of the commission annually shall elect their chairperson and vice chairperson to serve for a term of one calendar year. A majority of the members of said commission shall at all times constitute a quorum.

(4) Any vacancy on the commission shall be filled by appointment by the director for the unexpired term. [2011 1st sp.s. c 21 § 44; 2005 c 339 § 19; 2000 c 249 § 3.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

18.140.240 Commission/members—Duties and responsibilities. The members of the real estate appraiser commission and its individual members shall have the following duties and responsibilities:

(1) To meet at the call of the director or upon its own initiative at the call of its chair or a majority of its members;

(2) To adopt a mission statement, and to serve as a liaison between appraisal practitioners, the public, and the department; and

(3) To study and recommend changes to this chapter to the director or to the legislature. [2000 c 249 § 4.]

18.140.250 Commission member's compensation.

The commission members shall be compensated in accordance with RCW 43.03.240, plus travel expenses in accordance with RCW 43.03.050 and 43.03.060 when they are in session by their call or by the director, or when otherwise engaged in the business of the commission. [2000 c 249 § 5.]

18.140.260 Real estate appraiser commission account. The real estate appraiser commission account is created in the state treasury. All fees received by the department for certificates, licenses, registrations, renewals, examinations, and audits must be forwarded to the state treasurer who must credit the money to the account. All fines and civil penalties ordered pursuant to RCW 18.140.020, 18.140.160, or 18.235.110 against holders of certificates, licenses, or registrations issued under the provisions of this chapter must be paid to the account. All expenses incurred in carrying out the certification, licensing, and registration activities of the department under this chapter must be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. Any fund balance remaining in the general fund attributable to the real estate appraiser commission account as of July 1, 2003, must be transferred to the real estate appraiser commission account. [2005 c 339 § 20; 2002 c 86 § 241.]

Additional notes found at www.leg.wa.gov

18.140.270 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 242.]

Additional notes found at www.leg.wa.gov

18.140.280 Trainee real estate appraiser—Registration. (1) The director may issue an original registration as a state-registered trainee real estate appraiser, to be valid for a term not exceeding two years together with a maximum of two renewals, which must be completed within seven years from the original date of registration, unless either period is interrupted by service in the armed forces of the United States of America.

(2) A trainee real estate appraiser may not provide appraisal services other than through and under the direct supervision of a state-certified general real estate appraiser or a state-certified residential real estate appraiser. [2005 c 339 § 21.]

Additional notes found at www.leg.wa.gov

18.140.290 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director

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determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 8.]

18.140.900 Short title. This chapter may be known and cited as the real estate appraiser act. [1993 c 30 § 22; 1989 c 414 § 2.]

Chapter 18.145 RCW COURT REPORTING PRACTICE ACT

Sections

18.145.005	Findings.
18.145.010	Certificate required.
18.145.020	Practice of court reporting defined.
18.145.030	Definitions.
18.145.040	Exemptions.
18.145.050	Powers of director.
18.145.070	Liability of director.
18.145.080	Certification requirements.
18.145.090	Certification applications—Fee.
18.145.100	Renewals—Late fees—Reinstatement.
18.145.110	Persons with stenomask reporting experience.
18.145.120	Sanctions against certificate—Director's powers—Costs.
18.145.125	Certificate suspension—Nonpayment or default on educational loan or scholarship.
18.145.127	Certificate suspension—Noncompliance with support order—Reissuance.
18.145.130	Unprofessional conduct.
18.145.140	Uniform regulation of business and professions act.
18.145.150	Military training or experience.
18.145.900	Short title.
18.145.910	Effective date—Implementation—1989 c 382.

18.145.005 Findings. The legislature finds it necessary to regulate the practice of court reporting at the level of certification to protect the public safety and well-being. The legislature intends that only individuals who meet and maintain minimum standards of competence may represent themselves as court reporters. [1995 c 27 § 1; 1989 c 382 § 1.]

18.145.010 Certificate required. (1) No person may represent himself or herself as a court reporter without first obtaining a certificate as required by this chapter.

(2) A person represents himself or herself to be a court reporter when the person adopts or uses any title or description of services that incorporates one or more of the following terms: "Shorthand reporter," "court reporter," "certified shorthand reporter," or "certified court reporter." [2000 c 171 § 31; 1989 c 382 § 2.]

18.145.020 Practice of court reporting defined. The "practice of court reporting" means the making by means of written symbols or abbreviations in shorthand or machine writing or oral recording by a stenomask reporter of a verbatim record of any oral court proceeding, deposition, or proceeding before a jury, referee, court commissioner, special master, governmental entity, or administrative agency and the producing of a transcript from the proceeding. [1995 c 27 § 3; 1989 c 382 § 3.]

18.145.030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

(3) "Court reporter" means an individual certified under this chapter. [1995 c 269 § 501; 1995 c 27 § 4; 1989 c 382 § 4.]

Reviser's note: This section was amended by 1995 c 27 § 4 and by 1995 c 269 § 501, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

18.145.040 Exemptions. Nothing in this chapter prohibits or restricts:

(1) The practice of court reporting by individuals who are licensed, certified, or registered as court reporters under other laws of this state and who are performing services within their authorized scope of practice;

(2) The practice of court reporting by an individual employed by the government of the United States while the individual is performing duties prescribed by the laws and regulations of the United States; or

(3) The introduction of alternate technology in court reporting practice. [1995 c 27 § 5; 1989 c 382 § 5.]

18.145.050 Powers of director. In addition to any other authority provided by law, the director may:

(1) Adopt rules in accordance with chapter 34.05 RCW that are necessary to implement this chapter;

(2) Set all renewal, late renewal, duplicate, and verification fees in accordance with RCW 43.24.086;

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

(4) Issue a certificate to any applicant who has met the requirements for certification;

(5) Hire clerical and administrative staff as needed to implement and administer this chapter;

(6) Maintain the official departmental record of all applicants and certificate holders;

(7) Approve the preparation and administration of examinations for certification;

(8) Establish by rule the procedures for an appeal of a failure of an examination;

(9) Set the criteria for meeting the standard required for certification;

(10) Establish continuing education requirements;

(11) Establish advisory committees whose membership shall include representatives of professional court reporting and stenomasking associations and representatives from accredited schools offering degrees in court reporting or stenomasking to advise the director on testing procedures, professional standards, disciplinary activities, or any other matters deemed necessary;

(12) Establish ad hoc advisory committees whose membership shall include representatives of professional court reporting and stenomasking associations and representatives from accredited schools offering degrees in court reporting or stenomasking to advise the director on testing procedures, professional standards, or any other matters deemed necessary. [2010 c 49 § 1; 2002 c 86 § 243. Prior: 1995 c 269 § 502; 1995 c 27 § 6; 1989 c 382 § 6.]

Additional notes found at www.leg.wa.gov

18.145.070 Liability of director. The director and individuals acting on the director's behalf shall not be civilly liable for any act performed in good faith in the course of their duties. [1995 c 269 § 503; 1995 c 27 § 7; 1989 c 382 § 8.]

Reviser's note: This section was amended by 1995 c 27 § 7 and by 1995 c 269 § 503, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

18.145.080 Certification requirements. The department shall issue a certificate to any applicant who meets the standards established under this chapter and who:

(1) Is holding one of the following:

(a) Certificate of proficiency, registered professional reporter, registered merit reporter, or registered diplomate reporter from [the] national court reporters association;

(b) Certificate of proficiency or certificate of merit from [the] national stenomask verbatim reporters association; or

(c) A current Washington state court reporter certification; or

(2) Has passed an examination approved by the director or an examination that meets or exceeds the standards established by the director. [1995 c 269 § 504; 1995 c 27 § 8; 1989 c 382 § 9.]

Reviser's note: This section was amended by 1995 c 27 § 8 and by 1995 c 269 § 504, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

18.145.090 Certification applications—Fee. Applications for certification shall be submitted on forms provided by the department. The department may require information and documentation to determine whether the applicant meets the standard for certification as provided in this chapter. Each applicant shall pay a fee determined by the director as provided in RCW 43.24.086 which shall accompany the application. [1995 c 27 § 9; 1989 c 382 § 10.]

18.145.100 Renewals—Late fees—Reinstatement. The director shall establish by rule the requirements, including continuing education requirements, and the renewal and late renewal fees for certification. Failure to renew the certificate on or before the expiration date cancels all privileges granted by the certificate. If an individual desires to reinstate a certificate which had not been renewed for three years or more, the individual shall satisfactorily demonstrate continued competence in conformance with standards determined by the director. [2010 c 49 § 2; 1989 c 382 § 11.]

18.145.110 Persons with stenomask reporting experience. Persons with two or more years' experience in stenomask reporting in Washington state as of January 1, 1996, shall be granted a court reporter certificate without examination, if application is made before January 1, 1996. [1995 c 27 § 10; 1989 c 382 § 12.]

18.145.120 Sanctions against certificate—Director's powers—Costs. (1) Upon receipt of complaints against court reporters, the director shall investigate and evaluate the complaint to determine if disciplinary action is appropriate.

The director shall hold disciplinary hearings pursuant to chapter 34.05 RCW.

(2) After a hearing conducted under chapter 34.05 RCW and upon a finding that a certificate holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, except as provided in RCW 9.97.020, the director may issue an order providing for one or any combination of the following:

- (a) Revocation of the certification;
- (b) Suspension of the certificate for a fixed or indefinite term;
- (c) Restriction or limitation of the practice;
- (d) Requiring the satisfactory completion of a specific program or remedial education;
- (e) The monitoring of the practice by a supervisor approved by the director;
- (f) Censure or reprimand;
- (g) Compliance with conditions of probation for a designated period of time;
- (h) Denial of the certification request;
- (i) Corrective action;
- (j) Refund of fees billed to or collected from the consumer.

Any of the actions under this section may be totally or partly stayed by the director. In determining what action is appropriate, the director shall consider sanctions necessary to protect the public, after which the director may consider and include in the order requirements designed to rehabilitate the certificate holder or applicant. All costs associated with compliance to orders issued under this section are the obligation of the certificate holder or applicant. [2016 c 81 § 15; 1995 c 27 § 11; 1989 c 382 § 13.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

18.145.125 Certificate suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the certificate of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 20.]

Additional notes found at www.leg.wa.gov

18.145.127 Certificate suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend any certificate issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by

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the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 833.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.145.130 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any certificate 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 court reporting, whether or not the act constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action;

(2) Misrepresentation or concealment of a material fact in obtaining or in seeking reinstatement of a certificate;

(3) Advertising in a false, fraudulent, or misleading manner;

(4) Incompetence or negligence;

(5) Suspension, revocation, or restriction of the individual's certificate, registration, or license to practice court reporting by a regulatory authority in any state, federal, or foreign jurisdiction;

(6) Violation of any state or federal statute or administrative rule regulating the profession;

(7) Failure to cooperate in an inquiry, investigation, or disciplinary action by:

(a) Not furnishing papers or documents;

(b) Not furnishing in writing a full and complete explanation of the matter contained in the complaint filed with the director;

(c) Not responding to subpoenas issued by the director, regardless of whether the recipient of the subpoena is the accused in the proceeding;

(8) Failure to comply with an order issued by the director or an assurance of discontinuance entered into with the director;

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

(10) Conviction of any gross misdemeanor or felony relating to the practice of the profession. For the purpose 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. [1995 c 27 § 12; 1989 c 382 § 14.]

18.145.140 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 244.]

Additional notes found at www.leg.wa.gov

18.145.150 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 9.]

18.145.900 Short title. This chapter may be known and cited as the court reporting practice act. [1995 c 27 § 13; 1989 c 382 § 15.]

18.145.910 Effective date—Implementation—1989 c 382. This act shall take effect September 1, 1989, except that the director may immediately take such steps as are necessary to ensure that this act is implemented on its effective date. [1989 c 382 § 16.]

Chapter 18.155 RCW

SEX OFFENDER TREATMENT PROVIDERS

Sections

18.155.010	Findings—Construction.
18.155.020	Definitions.
18.155.030	Certificate required.
18.155.040	Secretary—Authority.
18.155.060	Immunity.
18.155.070	Certificate—Requirements.
18.155.075	Affiliate certificate—Requirements.
18.155.080	Standards and procedures.
18.155.090	Application of uniform disciplinary act.
18.155.900	Index, part headings not law—1990 c 3.
18.155.901	Severability—1990 c 3.
18.155.902	Effective dates—Application—1990 c 3.

18.155.010 Findings—Construction. The legislature finds that sex offender therapists who examine and treat sex offenders pursuant to the special sexual [sex] offender sentencing alternative under RCW 9.94A.670 and who may treat juvenile sex offenders pursuant to RCW 13.40.160, play a vital role in protecting the public from sex offenders who remain in the community following conviction. The legislature finds that the qualifications, practices, techniques, and effectiveness of sex offender treatment providers vary widely and that the court's ability to effectively determine the appropriateness of granting the sentencing alternative and monitoring the offender to ensure continued protection of the community is undermined by a lack of regulated practices. The legislature recognizes the right of sex offender therapists to practice, consistent with the paramount requirements of public safety. Public safety is best served by regulating sex offender therapists whose clients are being evaluated and being treated pursuant to RCW 9.94A.670 and 13.40.160. This chapter shall be construed to require only those sex offender therapists who examine and treat sex offenders pursuant to RCW 9.94A.670 and 13.40.160 to obtain a sexual [sex] offender treatment certification as provided in this chapter. [2000 c 171 § 32; 2000 c 28 § 37; 1990 c 3 § 801.]

[Title 18 RCW—page 356]

Reviser's note: This section was amended by 2000 c 28 § 37 and by 2000 c 171 § 32, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

18.155.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Certified sex offender treatment provider" means a licensed, certified, or registered health professional who is certified to examine and treat sex offenders pursuant to chapters 9.94A and 13.40 RCW and sexually violent predators under chapter 71.09 RCW.

(2) "Certified affiliate sex offender treatment provider" means a licensed, certified, or registered health professional who is certified as an affiliate to examine and treat sex offenders pursuant to chapters 9.94A and 13.40 RCW and sexually violent predators under chapter 71.09 RCW under the supervision of a certified sex offender treatment provider.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health.

(5) "Sex offender treatment provider" or "affiliate sex offender treatment provider" means a person who counsels or treats sex offenders accused of or convicted of a sex offense as defined by RCW 9.94A.030. [2004 c 38 § 3; 2001 2nd sp.s. c 12 § 401. Prior: 2000 c 171 § 33; 2000 c 28 § 38; 1990 c 3 § 802.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

18.155.030 Certificate required. (1) No person shall represent himself or herself as a certified sex offender treatment provider or certified affiliate sex offender treatment provider without first applying for and receiving a certificate pursuant to this chapter.

(2) Only a certified sex offender treatment provider, or certified affiliate sex offender treatment provider who has completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, may perform or provide the following services:

(a) Evaluations conducted for the purposes of and pursuant to RCW 9.94A.670 and 13.40.160;

(b) Treatment of convicted level III sex offenders who are sentenced and ordered into treatment pursuant to chapter 9.94A RCW and adjudicated level III juvenile sex offenders who are ordered into treatment pursuant to chapter 13.40 RCW;

(c) Except as provided under subsection (3) of this section, treatment of sexually violent predators who are conditionally released to a less restrictive alternative pursuant to chapter 71.09 RCW.

(3) A certified sex offender treatment provider, or certified affiliate sex offender treatment provider who has completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, may not perform or provide treatment of sexually violent predators under subsection (2)(c) of this section if the treatment provider has been:

(a) Convicted of a sex offense, as defined in RCW 9.94A.030;

(2016 Ed.)

(b) Convicted in any other jurisdiction of an offense that under the laws of this state would be classified as a sex offense as defined in RCW 9.94A.030; or

(c) Suspended or otherwise restricted from practicing any health care profession by competent authority in any state, federal, or foreign jurisdiction.

(4) Certified sex offender treatment providers and certified affiliate sex offender treatment providers may perform or provide the following service: Treatment of convicted level I and level II sex offenders who are sentenced and ordered into treatment pursuant to chapter 9.94A RCW and adjudicated juvenile level I and level II sex offenders who are sentenced and ordered into treatment pursuant to chapter 13.40 RCW. [2004 c 38 § 4; 2001 2nd sp.s. c 12 § 402. Prior: 2000 c 171 § 34; 2000 c 28 § 39; 1990 c 3 § 803.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Additional notes found at www.leg.wa.gov

18.155.040 Secretary—Authority. In addition to any other authority provided by law, the secretary shall have the following authority:

(1) To set administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.250 and 43.70.280;

(2) To establish forms necessary to administer this chapter;

(3) To issue a certificate or an affiliate certificate to any applicant who has met the education, training, and examination requirements for certification or an affiliate certification and deny a certificate to applicants who do not meet the minimum qualifications for certification or affiliate certification. Proceedings concerning the denial of certificates based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) To hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and to hire individuals including those certified under this chapter to serve as examiners or consultants as necessary to implement and administer this chapter;

(5) To maintain the official department record of all applicants and certifications;

(6) To conduct a hearing on an appeal of a denial of a certificate on the applicant's failure to meet the minimum qualifications for certification. The hearing shall be conducted pursuant to chapter 34.05 RCW;

(7) To issue subpoenas, statements of charges, statements of intent to deny certificates, and orders and to delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements of intent to deny certificates;

(8) To determine the minimum education, work experience, and training requirements for certification or affiliate certification, including but not limited to approval of educational programs;

(9) To prepare and administer or approve the preparation and administration of examinations for certification;

(10) To establish by rule the procedure for appeal of an examination failure;

(11) To adopt rules implementing a continuing competence program;

(2016 Ed.)

(12) To adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter. [2004 c 38 § 5; 1996 c 191 § 86; 1990 c 3 § 804.]

Additional notes found at www.leg.wa.gov

18.155.060 Immunity. The secretary, members of the committee, and individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties. [1990 c 3 § 806.]

18.155.070 Certificate—Requirements. The department shall issue a certificate to any applicant who meets the following requirements:

(1) Successful completion of an educational program approved by the secretary or successful completion of alternate training which meets the criteria of the secretary;

(2) Successful completion of any experience requirement established by the secretary;

(3) Successful completion of an examination administered or approved by the secretary;

(4) Not having engaged in unprofessional conduct or being unable to practice with reasonable skill and safety as a result of a physical or mental impairment;

(5) Not convicted of a sex offense, as defined in RCW 9.94A.030 or convicted in any other jurisdiction of an offense that under the laws of this state would be classified as a sex offense as defined in RCW 9.94A.030; and

(6) Other requirements as may be established by the secretary that impact the competence of the sex offender treatment provider. [2006 c 134 § 1; 1990 c 3 § 807.]

18.155.075 Affiliate certificate—Requirements. The department shall issue an affiliate certificate to any applicant who meets the following requirements:

(1) Successful completion of an educational program approved by the secretary or successful completion of alternate training which meets the criteria of the secretary;

(2) Successful completion of an examination administered or approved by the secretary;

(3) Proof of supervision by a certified sex offender treatment provider;

(4) Not having engaged in unprofessional conduct or being unable to practice with reasonable skill and safety as a result of a physical or mental impairment;

(5) Not convicted of a sex offense, as defined in RCW 9.94A.030 or convicted in any other jurisdiction of an offense that under the laws of this state would be classified as a sex offense as defined in RCW 9.94A.030; and

(6) Other requirements as may be established by the secretary that impact the competence of the sex offender treatment provider. [2006 c 134 § 2; 2004 c 38 § 6.]

Additional notes found at www.leg.wa.gov

18.155.080 Standards and procedures. The secretary shall establish standards and procedures for approval of the following:

(1) Educational programs and alternate training;

(2) Examination procedures;

(3) Certifying applicants who have a comparable certification in another jurisdiction;

(4) Application method and forms;

(5) Requirements for renewals of certificates;

(6) Requirements of certified sex offender treatment providers and certified affiliate sex offender treatment providers who seek inactive status;

(7) Other rules, policies, administrative procedures, and administrative requirements as appropriate to carry out the purposes of this chapter. [2004 c 38 § 7; 1996 c 191 § 87; 1990 c 3 § 808.]

Additional notes found at www.leg.wa.gov

18.155.090 Application of uniform disciplinary act.

The uniform disciplinary act, chapter 18.130 RCW, governs unauthorized practice, the issuance and denial of certificates, and the discipline of certified sex offender treatment providers and certified affiliate sex offender treatment providers under this chapter. [2004 c 38 § 8; 1990 c 3 § 809.]

Additional notes found at www.leg.wa.gov

18.155.900 Index, part headings not law—1990 c 3.

The index and part headings used in this act do not constitute any part of the law. [1990 c 3 § 1404.]

18.155.901 Severability—1990 c 3. 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. [1990 c 3 § 1405.]

18.155.902 Effective dates—Application—1990 c 3.

(1) Sections 101 through 131, 401 through 409, 501 through 504, 606, 707 and 708, 801 through 810, 1101 through 1104, 1201 through 1210, and 1401 through 1403 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [February 28, 1990].

(2) Sections 201 through 203, 301 through 305, 701 through 706, and 901 through 904 shall take effect July 1, 1990, and shall apply to crimes committed on or after July 1, 1990.

(3) Sections 1001 through 1012 shall take effect July 1, 1990.

(4) Section 1301 shall take effect July 1, 1991.

(5) Sections 601 through 605, for purposes of sentencing adult or juvenile offenders shall take effect July 1, 1990, and shall apply to crimes or offenses committed on or after July 1, 1990. For purposes of defining a "sexually violent offense" pursuant to section 1002(4) of this act, sections 601 through 605 of this act shall take effect July 1, 1990, and shall apply to crimes committed on, before, or after July 1, 1990. [1990 c 3 § 1406.]

Chapter 18.160 RCW

FIRE SPRINKLER SYSTEM CONTRACTORS

Sections

- 18.160.010 Definitions.
- 18.160.020 Local government license and permit requirements—Exemptions from chapter.
- 18.160.030 State director of fire protection—Duties.
- 18.160.040 Certificate of competency—Contractor license.

- 18.160.050 Renewal—Certificate of competency—Contractor license—Fire protection contractor license fund created.
- 18.160.070 Local government regulation—Application to state and government contractors.
- 18.160.080 Actions against certificates or licenses—Grounds—Appeal.
- 18.160.085 Certificate suspension—Nonpayment or default on educational loan or scholarship.
- 18.160.090 Surety bond—Security deposit—Venue and time limit for actions upon bonds—Limit of liability of surety—Payment of claims.
- 18.160.100 Unlicensed operations—Penalty.
- 18.160.110 Enforcement—Civil proceedings.
- 18.160.120 Infractions—Failure to obtain certificate of competency—Fines.
- 18.160.900 Prospective application.
- 18.160.901 Effective date—1990 c 177.

Criminal penalties: RCW 9.45.260.

18.160.010 Definitions. The following words or terms shall have the meanings indicated unless the context clearly indicates otherwise.

(1) "Certificate of competency holder" means an individual who has satisfactorily met the qualifications and has received a certificate of competency from the state director of fire protection under the provisions of this chapter.

(2) "Fire protection sprinkler system contractor" means a person or organization that offers to undertake the execution of contracts for the installation, inspection, maintenance, or servicing of a fire protection sprinkler system or any part of such a system.

(3) "Fire protection sprinkler system" means an assembly of underground and/or overhead piping or conduit beginning at the connection to the primary water supply, whether public or private, that conveys water with or without other agents to dispersal openings or devices to extinguish, control, or contain fire and to provide protection from exposure to fire or other products of combustion.

(4) "Fire protection sprinkler system contractor's license" means the license issued by the state director of fire protection to a fire protection sprinkler system contractor upon an application being approved, the fee being paid, and the satisfactory completion of the requirements of this chapter. The license shall be issued in the name of the fire protection sprinkler system contractor with the name or names of the certificate of competency holder noted thereon.

(5) "NFPA 13-D" means whatever standard that is used by the national fire protection association for the installation of fire protection sprinkler systems in one or two-family residential dwellings or mobile homes.

(6) "NFPA 13-R" means whatever standard that is used by the national fire protection association for the installation of fire protection sprinkler systems in residential dwellings up to four stories in height.

(7) "Inspection" means a visual examination of a fire protection sprinkler system or portion of the system to verify that the system appears to be in operating condition and is free from physical damage and complies with the applicable statutes and regulations adopted by the state director of fire protection.

(8) "Installation" means the initial placement of fire protection sprinkler system equipment or the extension, modification, or alteration of equipment after the initial placement. Installation shall include the work from a street or main water access throughout the entire building.

(9) "Maintenance" means to maintain in the condition of repair that provides performance as originally planned.

(10) "Organization" means a corporation, partnership, firm, or other business association, governmental entity, or any other legal or commercial entity.

(11) "Person" means a natural person, including an owner, manager, partner, officer, employee, or occupant.

(12) "Service" means to repair or test. [1990 c 177 § 2.]

18.160.020 Local government license and permit requirements—Exemptions from chapter. (1) A municipality or county may not enact an order, ordinance, rule, or regulation requiring a fire protection sprinkler system contractor to obtain a fire sprinkler contractor license from the municipality or county. However, a municipality or county may require a fire protection sprinkler system contractor to obtain a permit and pay a fee for the installation of a fire protection sprinkler system and require the installation of such systems to conform with the building code or other construction requirements of the municipality or county, but may not impose financial responsibility requirements other than proof of a valid license.

(2) This chapter does not apply to:

(a) United States, state, and local government employees, building officials, fire marshals, fire inspectors, or insurance inspectors when acting in their official capacities;

(b) A person or organization acting under court order;

(c) A person or organization that sells or supplies products or materials to a licensed fire protection sprinkler system contractor;

(d) A registered professional engineer acting solely in a professional capacity;

(e) An employee of a licensed fire protection sprinkler system contractor performing duties for the registered fire protection sprinkler system contractor; and

(f) An owner/occupier of a single-family residence performing his or her own installation in that residence. [1990 c 177 § 3.]

18.160.030 State director of fire protection—Duties.

(1) This chapter shall be administered by the state director of fire protection.

(2) The state director of fire protection shall have the authority, and it shall be his or her duty to:

(a) Issue such administrative regulations as necessary for the administration of this chapter;

(b)(i) Set reasonable fees for licenses, certificates, testing, and other aspects of the administration of this chapter. However, the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-D fire protection sprinkler systems shall not exceed one hundred dollars, and the license fee for fire protection sprinkler system contractors engaged solely in the installation, inspection, maintenance, or servicing of NFPA 13-R fire protection sprinkler systems shall not exceed three hundred dollars;

(ii) Adopt rules establishing a special category restricted to contractors registered under chapter 18.27 RCW who install underground systems that service fire protection sprinkler systems. The rules shall be adopted within ninety days of March 31, 1992;

(iii) Subject to RCW 18.160.120, adopt rules defining infractions under this chapter and fines to be assessed for those infractions;

(c) Enforce the provisions of this chapter;

(d) Conduct investigations of complaints to determine if any infractions of this chapter or the regulations developed under this chapter have occurred;

(e) Assign a certificate number to each certificate of competency holder; and

(f) Adopt rules necessary to implement and administer a program which requires the affixation of a seal any time a fire protection sprinkler system is installed, which seal shall include the certificate number of any certificate of competency holder who installs, in whole or in part, the fire protection sprinkler system. [2003 c 74 § 1; 2000 c 171 § 35; 1992 c 116 § 2; 1990 c 177 § 4.]

18.160.040 Certificate of competency—Contractor license.

(1) To become a certificate of competency holder under this chapter, an applicant must have satisfactorily passed an examination administered by the state director of fire protection. A certificate of competency holder can satisfy this examination requirement by presenting a copy of a current certificate of competency from the national institute for certification in engineering technologies showing that the applicant has achieved the classification of engineering technician level 3 or senior engineering technician level 4 in the field of fire protection, automatic sprinkler system layout. The state director of fire protection may accept equivalent proof of qualification in lieu of examination. This examination requirement is mandatory except as otherwise provided in this chapter.

(2) Every applicant for a certificate of competency shall fulfill the requirements established by the state director of fire protection under chapter 34.05 RCW.

(3) Every applicant for a certificate of competency shall make application to the state director of fire protection and pay the fees required.

(4) Provided the application for the certificate of competency is made prior to ninety days after May 1, 1991, the state director of fire protection, in lieu of the examination requirements of the applicant for a certificate of competency, may accept as satisfactory evidence of competency and qualification, affidavits attesting that the applicant has had a minimum of three years' experience.

(5) The state director of fire protection may issue a temporary certificate of competency to an applicant who, in his or her judgment, will satisfactorily perform as a certificate of competency holder under the provisions of this chapter. The temporary certificate of competency shall remain in effect for a period of up to three years. The temporary certificate of competency holder shall, within the three-year period, complete the examination requirements specified in subsection (1) of this section. There shall be no examination exemption for an individual issued a temporary certificate of competency. Prior to the expiration of the three-year period, the temporary certificate of competency holder shall make application for a regular certificate of competency. The procedures and qualifications for issuance of a regular certificate of competency shall be applicable to the temporary certificate of competency holder. When a temporary certificate of compe-

teny expires, the holder shall cease all activities associated with the holding of a temporary certificate of competency, subject to the penalties contained in this chapter.

(6) To become a licensed fire protection sprinkler system contractor under this chapter, a person or firm must comply with the following:

(a) Must be or have in his or her full-time employ a holder of a valid certificate of competency;

(b) Comply with the minimum insurance requirements of this chapter; and

(c) Make application to the state director of fire protection for a license and pay the fees required.

(7) Each license and certificate of competency issued under this chapter must be posted in a conspicuous place in the fire protection sprinkler system contractor's place of business.

(8) All bids, advertisements, proposals, offers, and installation drawings for fire protection sprinkler systems must prominently display the fire protection sprinkler system contractor's license number.

(9) A certificate of competency or license issued under this chapter is not transferable.

(10) In no case shall a certificate of competency holder be employed full time by more than one fire protection sprinkler system contractor at the same time. If the certificate of competency holder should leave the employment of the fire protection sprinkler system contractor, he or she must notify the state director of fire protection within thirty days. If the certificate of competency holder should leave the employment of the fire protection sprinkler system contractor, the contractor shall have six months or until the expiration of the current license, whichever occurs last, to submit a new application identifying another certificate of competency holder who is at the time of application an owner of the fire protection sprinkler system business or a full-time employee of the fire protection sprinkler system contractor, in order to be issued a new license. If such application is not received and a new license issued within the allotted time, the state director of fire protection shall revoke the license of the fire protection sprinkler system contractor. [2000 c 171 § 36; 1990 c 177 § 5.]

18.160.050 Renewal—Certificate of competency—Contractor license—Fire protection contractor license fund created. (1)(a) All certificate of competency holders that desire to continue in the fire protection sprinkler business shall annually, prior to January 1st, secure from the state director of fire protection a renewal certificate of competency upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the certificate holder shall furnish the information required by the director.

(b) Failure of any certificate of competency holder to secure his or her renewal certificate of competency within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the certificate of competency.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late

charge, restore a certificate of competency that has been suspended for failure to pay the renewal fee.

(d) A certificate of competency holder may voluntarily surrender his or her certificate of competency to the state director of fire protection and be relieved of the annual renewal fee. After surrendering the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof. Within two years from the time of surrender of the certificate of competency, he or she may again qualify for a certificate of competency, without examination, by the payment of the required fee. If two or more years have elapsed, he or she shall return to the status of a new applicant.

(2)(a) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall annually, prior to January 1st, secure from the state director of fire protection a renewal license upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the license holder shall furnish the information required by the director.

(b) Failure of any license holder to secure his or her renewal license within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the license.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a license that has been suspended for failure to pay the renewal fee.

(3) The initial certificate of competency or license fee shall be prorated based upon the portion of the year such certificate of competency or license is in effect, prior to renewal on January 1st.

(4) The fire protection contractor license fund is created in the custody of the state treasurer. All receipts from license and certificate fees and charges or from the money generated by the rules and regulations promulgated under this chapter shall be deposited into the fund. Expenditures from the fund may be used only for purposes authorized under this chapter and standards for fire protection and its enforcement, with respect to all hospitals as required by RCW 70.41.080; for providing assistance in identifying fire sprinkler system components that have been subject to either a recall or voluntary replacement program by a manufacturer of fire sprinkler products, a nationally recognized testing laboratory, or the federal consumer product safety commission; and for use in developing and publishing educational materials related to the effectiveness of residential fire sprinklers. Assistance shall include, but is not limited to, aiding in the identification of recalled components, information sharing strategies aimed at ensuring the consumer is made aware of recalls and voluntary replacement programs, and providing training and assistance to local fire authorities, the fire sprinkler industry, and the public. Only the state director of fire protection or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [2011 c 331 § 2; 2008 c 155 § 2; 2005 c 109 § 1; 1990 c 177 § 6.]

Intent—2011 c 331: See note following RCW 82.02.100.

18.160.070 Local government regulation—Application to state and government contractors. (1) Nothing in this chapter limits the power of a municipality, county, or the state to regulate the quality and character of work performed by contractors, through a system of permits, fees, and inspections which are designed to assure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety. Nothing in this chapter limits the power of the municipality, county, or the state to adopt any system of permits requiring submission to and approval by the municipality, county, or the state, of technical drawings and specifications for work to be performed by contractors before commencement of the work. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler system contractor is duly licensed by requiring evidence of a valid fire protection sprinkler system contractor's license.

(2) This chapter applies to any fire protection sprinkler system contractor performing work for any municipality, county, or the state. Officials of any municipality, county, or the state are required to determine compliance with this chapter before awarding any contracts for the installation, repair, service, alteration, fabrication, addition, or inspection of a fire protection sprinkler system. [1990 c 177 § 8.]

18.160.080 Actions against certificates or licenses—Grounds—Appeal. (1) The state director of fire protection may refuse to issue or renew or may suspend or revoke the privilege of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder to engage in the fire protection sprinkler system business or in lieu thereof, establish penalties as prescribed by Washington state law, for any of the following reasons:

(a) Gross incompetency or gross negligence in the preparation of technical drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems;

(b) Except as provided in RCW 9.97.020, conviction of a felony;

(c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler system business;

(d) Use of false evidence or misrepresentation in an application for a license or certificate of competency;

(e) Permitting his or her license to be used in connection with the preparation of any technical drawings which have not been prepared by him or her personally or under his or her immediate supervision, or in violation of this chapter; or

(f) Knowingly violating any provisions of this chapter or the regulations issued thereunder.

(2) The state director of fire protection shall revoke the license of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder who engages in the fire protection sprinkler system business while the license or certificate of competency is suspended.

(3) The state director of fire protection shall immediately suspend any license or certificate issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all

other requirements for issuance or reinstatement during the suspension, issuance or reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(4) Any licensee or certificate of competency holder who is aggrieved by an order of the state director of fire protection suspending or revoking a license may, within thirty days after notice of such suspension or revocation, appeal under chapter 34.05 RCW. This subsection does not apply to actions taken under subsection (3) of this section. [2016 c 81 § 17; 1997 c 58 § 834; 1990 c 177 § 10.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.160.085 Certificate suspension—Nonpayment or default on educational loan or scholarship. The state director of fire protection shall suspend the certificate of any person who has been certified by a lending agency and reported to the state director of fire protection for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate shall not be reissued until the person provides the state director of fire protection a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the state director of fire protection may impose. [1996 c 293 § 21.]

Additional notes found at www.leg.wa.gov

18.160.090 Surety bond—Security deposit—Venue and time limit for actions upon bonds—Limit of liability of surety—Payment of claims. (1) Before granting a license under this chapter, the director of fire protection shall require that the applicant file with the state director of fire protection a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in a form acceptable to the director of fire protection running to the state of Washington in the penal sum of ten thousand dollars. However, the surety bond for a fire protection sprinkler system contractor whose business is restricted solely to NFPA 13-D or NFPA 13-R systems shall be in the penal sum of six thousand dollars. The bond shall be conditioned that the applicant will pay all purchasers of fire protection sprinkler systems with whom the applicant has a contract for the applicant to install,

inspect, maintain, or service a fire protection sprinkler system, and who have obtained a judgment against the applicant for the breach of such a contract. The term "purchaser" means an owner of property who has entered into a contract for the installation of a fire protection sprinkler system on that property, or a contractor who contracts to install, inspect, maintain, or service such a system with an owner of property and subcontracts the work to the applicant. No other person, including, but not limited to, persons who supply labor, materials, or rental equipment to the applicant, shall have any rights against the bond.

(2) In lieu of the surety bond required by this section the applicant may file with the director of fire protection a deposit consisting of cash or other security acceptable to the director of fire protection in an amount equal to the penal sum of the required bond. The director of fire protection may adopt rules necessary for the proper administration of the security.

(3) Before granting renewal of a fire protection sprinkler system contractor's license to any applicant, the director of fire protection shall require that the applicant file with the director satisfactory evidence that the surety bond or cash deposit is in full force.

(4) Any purchaser of a fire protection sprinkler system having a claim against the licensee for the breach of a contract for the licensee to install, inspect, maintain, or service a fire protection sprinkler system may bring suit upon such bond in superior court of the county in which the work was done or of any county in which jurisdiction of the licensee may be had. Any such action must be brought not later than one year after the expiration of the licensee's license or renewal license then in effect at the time of the alleged breach of contract.

(5) The bond shall be considered one continuous obligation, and the surety upon the bond shall not be liable in aggregate or cumulative amount exceeding ten thousand dollars, or six thousand dollars if the bond was issued to a licensee whose business is restricted solely to NFPA 13-D or NFPA 13-R systems, regardless of the number of years the bond is in effect, or whether it is reinstated, renewed, reissued, or otherwise continued, and regardless of the year in which any claim accrued. The bond shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplemental to any liability or other insurance required by law or by the contract.

(6) If the surety desires to make payment without awaiting court action against it, the amount of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond. Any payment shall be based on final judgments received by the surety.

(7) Claims against the bond shall be satisfied from the bond in the following order:

(a) Claims by a purchaser of a fire protection sprinkler system for the breach of a contract for the licensee to install, inspect, maintain, or service a fire protection sprinkler system;

(b) Any court costs, interest, and attorneys' fees the plaintiff may be entitled to recover by contract, statute, or court rule.

A condition precedent to the surety being liable to any claimant is a final judgment against the licensee, unless the surety desires to make payment without awaiting court action. In the event of a dispute regarding the apportionment of the bond proceeds among claimants, the surety may bring an action for interpleader against all claimants upon the bond.

(8) Any purchaser of a fire protection sprinkler system having an unsatisfied final judgment against the licensee for the breach of a contract for the licensee to install, inspect, maintain, or service a fire protection sprinkler system may execute upon the security held by the director of fire protection by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the director within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the director shall pay or order paid from the deposit, through the registry of the court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director, but the director shall have no liability for payment in excess of the amount of the deposit. [1991 sp.s. c 6 § 1.]

18.160.100 Unlicensed operations—Penalty. Any fire protection sprinkler system contractor who constructs, installs, or maintains a fire protection sprinkler system in any occupancy, except an owner-occupied single-family dwelling, without first obtaining a fire sprinkler contractor's license from the state of Washington, is guilty of a gross misdemeanor. This section may not be construed to create any criminal liability for a prime contractor or an owner of an occupancy unless it is proved that the prime contractor or owner had actual knowledge of an illegal construction, installation, or maintenance of a fire protection sprinkler system by a fire protection sprinkler system contractor. [1992 c 116 § 3.]

Wrongful acts by contractor, criminal penalty: RCW 9.45.260.

18.160.110 Enforcement—Civil proceedings. Civil proceedings to enforce this chapter may be brought by the attorney general or the prosecuting attorney of any county where a violation occurs on his or her own motion or at the request of the state director of fire protection. [1992 c 116 § 4.]

18.160.120 Infractions—Failure to obtain certificate of competency—Fines. (1) A fire protection sprinkler system contractor found to have committed an infraction under this chapter as defined in rule under RCW 18.160.030(2)(b)(iii) shall be assessed a fine of not less than two hundred dollars and not more than five thousand dollars.

(2) A fire protection sprinkler system contractor who fails to obtain a certificate of competency under RCW 18.160.040 shall be assessed a fine of not less than one thousand dollars and not more than five thousand dollars.

(3) All fines collected under this section shall be deposited into the fire protection contractor license fund. [2003 c 74 § 2.]

18.160.900 Prospective application. This chapter applies prospectively only and not retroactively. A municipal or county order, ordinance, rule, or regulation that is in effect

as of May 1, 1991, is not invalid because of the provisions of this chapter. This chapter does not prohibit municipalities or counties from adopting stricter guidelines that will assure the proper installation of fire sprinkler systems within their jurisdictions. [1990 c 177 § 12.]

18.160.901 Effective date—1990 c 177. RCW 18.160.010 through 18.160.080 shall take effect May 1, 1991. [1990 c 177 § 13.]

Chapter 18.165 RCW PRIVATE INVESTIGATORS

Sections

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18.165.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Armed private investigator" means a private investigator who has a current firearms certificate issued by the commission and is licensed as an armed private investigator under this chapter.

(2) "Chief law enforcement officer" means the elected or appointed police administrator of a municipal, county, or state police or sheriff's department that has full law enforcement powers in its jurisdiction.

(3) "Commission" means the criminal justice training commission established in chapter 43.101 RCW.

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

(5) "Director" means the director of the department of licensing.

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(6) "Employer" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent of any of the foregoing that employs or seeks to enter into an arrangement to employ any person as a private investigator.

(7) "Firearms certificate" means a certificate issued by the commission.

(8) "Forensic scientist" or "accident reconstructionist" means a person engaged exclusively in collecting and analyzing physical evidence and data relating to an accident or other matter and compiling such evidence or data to render an opinion of likely cause, fault, or circumstance of the accident or matter.

(9) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(10) "Principal" of a private investigator agency means the owner or manager appointed by a corporation.

(11) "Private investigator" means a person who is licensed under this chapter and is employed by a private investigator agency for the purpose of investigation, escort or body guard services, or property loss prevention activities.

(12) "Private investigator agency" means a person or entity licensed under this chapter and engaged in the business of detecting, discovering, or revealing one or more of the following:

(a) Crime, criminals, or related information;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person or thing;

(c) The location, disposition, or recovery of lost or stolen property;

(d) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property;

(e) Evidence to be used before a court, board, officer, or investigative committee;

(f) Detecting the presence of electronic eavesdropping devices; or

(g) The truth or falsity of a statement or representation.

(13) "Qualifying agent" means an officer or manager of a corporation who meets the requirements set forth in this chapter for obtaining a private investigator agency license.

(14) "Sworn peace officer" means a person who is an employee of the federal government, the state, or a political subdivision, agency, or department branch of a municipality or other unit of local government, and has law enforcement powers. [1995 c 277 § 17; 1991 c 328 § 1.]

18.165.020 Exemptions. The requirements of this chapter do not apply to:

(1) A person who is employed exclusively or regularly by one employer and performs investigations solely in connection with the affairs of that employer, if the employer is not a private investigator agency;

(2) An officer or employee of the United States or of this state or a political subdivision thereof, while engaged in the performance of the officer's official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information about the financial rating of persons;

(4) An attorney-at-law while performing the attorney's duties as an attorney;

(5) A licensed collection agency or its employee, while acting within the scope of that person's employment and making an investigation incidental to the business of the agency;

(6) Insurers, agents, and insurance brokers licensed by the state, while performing duties in connection with insurance transacted by them;

(7) A bank subject to the jurisdiction of the department of financial institutions or the comptroller of currency of the United States, or a savings and loan association subject to the jurisdiction of this state or the federal home loan bank board;

(8) A licensed insurance adjuster performing the adjuster's duties within the scope of the adjuster's license;

(9) A secured creditor engaged in the repossession of the creditor's collateral, or a lessor engaged in the repossession of leased property in which it claims an interest;

(10) A person who is a forensic scientist, accident reconstructionist, or other person who performs similar functions and does not hold himself or herself out to be an investigator in any other capacity;

(11) A person solely engaged in the business of securing information about persons or property from public records; or

(12) A certified public accountant regulated under chapter 18.04 RCW or the employee of a certified public accountant performing duties within the scope of public accountancy. [2015 c 105 § 1; 2000 c 171 § 37; 1995 c 277 § 18; 1991 c 328 § 2.]

18.165.030 Private investigator license—Requirements. An applicant must meet the following minimum requirements to obtain a private investigator license:

(1) Be at least eighteen years of age;

(2) Be a citizen or resident alien of the United States;

(3) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to his or her capacity to perform the duties of a private investigator and the director determines that the license should be withheld to protect the citizens of Washington state. The director shall make her or his determination to withhold a license because of previous convictions notwithstanding the restoration of employment rights act, chapter 9.96A RCW;

(4) Be employed by or have an employment offer from a private investigator agency or be licensed as a private investigator agency;

(5) Submit a set of fingerprints; however, if an applicant has been issued a license as a private security guard under chapter 18.170 RCW within the last twelve months, the applicant is not required to undergo a separate background check to become licensed under this chapter;

(6) Pay the required nonrefundable fee for each application; and

(7) Submit a fully completed application that includes proper identification on a form prescribed by the director for each company of employment. [2012 c 118 § 1; 1995 c 277 § 19; 1991 c 328 § 3.]

18.165.040 Armed private investigator license—Requirements. (1) An applicant must meet the following minimum requirements to obtain an armed private investigator license:

(a) Be licensed as a private investigator;

(b) Be at least twenty-one years of age;

(c) Have a current firearms certificate issued by the commission;

(d) Have a license to carry a concealed pistol; and

(e) Pay the fee established by the director.

(2) The armed private investigator license may take the form of an endorsement to the private investigator license if deemed appropriate by the director. [1995 c 277 § 21; 1991 c 328 § 4.]

18.165.050 Private investigator agency license—Requirements, restrictions—Assignment or transfer. (1) In addition to meeting the minimum requirements to obtain a license as a private investigator, an applicant, or, in the case of a partnership or limited partnership, each partner, or, in the case of a corporation, the qualifying agent must meet the following additional requirements to obtain a private investigator agency license:

(a) Pass an examination determined by the director to measure the person's knowledge and competence in the private investigator agency business; or

(b) Have had at least three years' experience in investigative work or its equivalent as determined by the director. A year's experience means not less than two thousand hours of actual compensated work performed before the filing of an application. An applicant shall substantiate the experience by written certifications from previous employers. If the applicant is unable to supply written certifications from previous employers, applicants may offer written certifications from professional persons other than employers who, based on personal professional knowledge, can substantiate the employment.

(2) An agency license issued pursuant to this section may not be assigned or transferred without prior written approval of the director.

(3) No license to own or operate a private investigator company may be issued to an applicant if the name of the company portrays the company as a public law enforcement agency, or in association with a public law enforcement agency, or includes the word "police." [1995 c 277 § 22; 1991 c 328 § 5.]

18.165.060 Armed private investigator license authority—Registration of firearms. (1) An armed private investigator license grants authority to the holder, while in the performance of his or her duties, to carry a firearm with which the holder has met the proficiency requirements established by the commission.

(2) All firearms carried by armed private investigators in the performance of their duties must be owned by the employer and, if required by law, must be registered with the proper government agency. [1995 c 277 § 23; 1991 c 328 § 6.]

18.165.070 Investigation of applicants. (1) Applications for licenses required under this chapter shall be filed

with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria.

(2) After receipt of an application for a license, the director shall conduct an investigation to determine whether the facts set forth in the application are true and shall request that the Washington state patrol compare the fingerprints submitted with the application to fingerprint records available to the Washington state patrol. The Washington state patrol shall forward the fingerprints of applicants for an armed private investigator license to the federal bureau of investigation for a national criminal history records check. The director may require that fingerprint cards of licensees be periodically reprocessed to identify criminal convictions subsequent to registration.

(3) The director shall solicit comments from the chief law enforcement officer of the county and city or town in which the applicant's employer is located on issuance of a permanent private investigator license.

(4) A summary of the information acquired under this section, to the extent that it is public information, may be forwarded by the department to the applicant's employer. [1995 c 277 § 25; 1991 c 328 § 7.]

18.165.080 License cards and certificates—Issuance and requirements. (1) The director shall issue a private investigator license card to each licensed private investigator and an armed private investigator license card to each armed private investigator.

(a) The license card may not be used as security clearance.

(b) A private investigator shall carry the license card whenever he or she is performing the duties of a private investigator and shall exhibit the card upon request.

(c) An armed private investigator shall carry the license card whenever he or she is performing the duties of an armed private investigator and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed private investigator agency.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1995 c 277 § 26; 1991 c 328 § 8.]

18.165.090 Preassignment training and testing. (1) The director shall adopt rules establishing preassignment training and testing requirements. The director may establish,

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by rule, continuing education requirements for private investigators.

(2) The director shall consult with the private investigator industry and law enforcement before adopting or amending the preassignment training or continuing education requirements of this section. [1995 c 277 § 27; 1991 c 328 § 9.]

18.165.100 Agency license—Surety bond or certificate of insurance required. (1) No private investigator agency license may be issued under the provisions of this chapter unless the applicant files with the director a surety bond, executed by a surety company authorized to do business in this state, in the sum of ten thousand dollars conditioned to recover against the principal and its servants, officers, agents, and employees by reason of its wrongful or illegal acts in conducting business licensed under this chapter.

The bond shall be made payable to the state of Washington, and anyone so injured by the principal or its servants, officers, agents, or employees shall have the right and shall be permitted to sue directly upon this obligation in his or her own name. This obligation shall be subject to successive suits for recovery until the face amount is completely exhausted.

(2) Every licensee must at all times maintain on file with the director the surety bond required by this section in full force and effect. Upon failure by a licensee to do so, the director shall suspend the licensee's license and shall not reinstate the license until this requirement is met.

(3) In lieu of posting bond, a licensed private investigator agency may file with the director a certificate of insurance as evidence that it has comprehensive general liability coverage of at least twenty-five thousand dollars for bodily or personal injury and twenty-five thousand dollars for property damage.

(4) The director may approve alternative methods of guaranteeing financial responsibility. [1995 c 277 § 28; 1991 c 328 § 10.]

18.165.110 Regulatory provisions exclusive—Authority of the state and political subdivisions. (1) The provisions of this chapter relating to the licensing for regulatory purposes of private investigators, armed private investigators, and private investigator agencies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business fee, business and occupation tax, or other tax upon private investigator agencies if such fees or taxes are levied by the state on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing for regulatory purposes private investigator agencies with respect to activities that are not regulated under this chapter. [1995 c 277 § 29; 1991 c 328 § 11.]

18.165.120 Out-of-state private investigators operating across state lines. Private investigators or armed private investigators whose duties require them to operate across state lines may operate in this state for up to thirty days per year, if they are properly registered and certified in another

state with training and certification requirements that the director finds are at least equal to the requirements of this state. [1995 c 277 § 30; 1991 c 328 § 12.]

18.165.130 Required notice of certain occurrences.

(1) A private investigator agency shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed private investigator or armed private investigator by returning the license to the department with the word "terminated" written across the face of the license, the date of termination, and the signature of the principal of the private investigator company.

(2) A private investigator agency shall notify the director within seventy-two hours and the chief law enforcement officer of the county, city, or town in which the agency is located immediately upon receipt of information affecting a licensed private investigator's or armed private investigator's continuing eligibility to hold a license under the provisions of this chapter.

(3) A private investigator company shall notify the local law enforcement agency whenever an employee who is an armed private investigator discharges his or her firearm while on duty other than on a supervised firearm range. The notification shall be made within ten business days of the date the firearm is discharged. [2000 c 171 § 38; 1995 c 277 § 31; 1991 c 328 § 13.]

18.165.140 Out-of-state private investigators—Application—Fee—Temporary assignment. (1) Any person from another state that the director determines has selection, training, and other requirements at least equal to those required by this chapter, and who holds a valid license, registration, identification, or similar card issued by the other state, may apply for a private investigator license card or armed private investigator license card on a form prescribed by the director. Upon receipt of an application fee to be determined by the director, the director shall issue the individual a private investigator license card or armed private investigator license card.

(2) A valid license, registration, identification, or similar card issued by any other state of the United States is valid in this state for a period of ninety days, but only if the licensee is on temporary assignment for the same employer that employs the licensee in the state in which he or she is a permanent resident.

(3) A person from another state on temporary assignment in Washington may not solicit business in this state or represent himself or herself as licensed in this state. [1995 c 277 § 32; 1991 c 328 § 14.]

18.165.150 Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement. (1) After June 30, 1992, any person who performs the functions and duties of a private investigator in this state without being licensed in accordance with the provisions of this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired

or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) After January 1, 1992, a person is guilty of a gross misdemeanor if he or she owns or operates a private investigator agency in this state without first obtaining a private investigator agency license.

(3) After June 30, 1992, the owner or qualifying agent of a private investigator agency is guilty of a gross misdemeanor if he or she employs any person to perform the duties of a private investigator without the employee having in his or her possession a permanent private investigator license issued by the department. This shall not preclude a private investigator agency from requiring applicants to attend preassignment training classes or from paying wages for attending the required preassignment training classes.

(4) After June 30, 1992, a person is guilty of a gross misdemeanor if he or she performs the functions and duties of an armed private investigator in this state unless the person holds a valid armed private investigator license issued by the department.

(5) After June 30, 1992, it is a gross misdemeanor for a private investigator agency to hire, contract with, or otherwise engage the services of an unlicensed armed private investigator knowing that the private investigator does not have a valid armed private investigator license issued by the director.

(6) It is a gross misdemeanor for a person to possess or use any vehicle or equipment displaying the word "police" or "law enforcement officer" or having any sign, shield, marking, accessory, or insignia that indicates that the equipment or vehicle belongs to a public law enforcement agency.

(7) It is the duty of all officers of the state and political subdivisions thereof to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the director, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [1995 c 277 § 33; 1991 c 328 § 15.]

18.165.155 Transfer of license. A licensee who transfers from one company to another must submit a transfer application on a form prescribed by the director along with a transfer fee established by the director. [1995 c 277 § 20.]

18.165.160 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following conduct, acts, or conditions:

(1) Violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Making a material misstatement or omission in the application for or renewal of a firearms certificate, including falsifying requested identification information;

(3) Not meeting the qualifications set forth in RCW 18.165.030, 18.165.040, or 18.165.050;

(4) Failing to return immediately on demand a firearm issued by an employer;

(5) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private investigator license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(6) Failing to return immediately on demand company identification, badges, or other items issued to the private investigator by an employer;

(7) Making any statement that would reasonably cause another person to believe that the private investigator is a sworn peace officer;

(8) Divulging confidential information obtained in the course of any investigation to which he or she was assigned;

(9) Acceptance of employment that is adverse to a client or former client and relates to a matter about which a licensee has obtained confidential information by reason of or in the course of the licensee's employment by the client;

(10) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.165.050;

(11) Assisting a client to locate, trace, or contact a person when the investigator knows that the client is prohibited by any court order from harassing or contacting the person whom the investigator is being asked to locate, trace, or contact, as it pertains to domestic violence, stalking, or minor children;

(12) Failure to maintain bond or insurance;

(13) Failure to have a qualifying principal in place; or

(14) Being certified as not in compliance with a support order as provided in RCW 74.20A.320. [2002 c 86 § 245; 1997 c 58 § 835; 1995 c 277 § 34; 1991 c 328 § 16.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.165.165 Display of firearms while soliciting clients. No licensee, employee or agent of a licensee, or anyone accompanying a licensee, employee, or agent may display a firearm while soliciting a client. [1995 c 277 § 24.]

18.165.170 Authority of director. The director or the director's designee has the following authority in administering this chapter:

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

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

(3) To adopt standards of professional conduct or practice. [2007 c 256 § 8; 2002 c 86 § 246; 1995 c 277 § 35; 1991 c 328 § 17.]

Additional notes found at www.leg.wa.gov

18.165.180 Complaints—Investigation—Immunity. A person, including but not limited to consumers, licensees, corporations, organizations, and state and local governmental agencies, may submit a written complaint to the department charging a license holder or applicant with unprofessional or unlawful conduct and specifying the grounds for the charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional or unlawful conduct, the director shall investigate to determine if there has been unprofessional or unlawful conduct. A person who files a complaint under this section in good faith is immune from suit in any civil

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action related to the filing or contents of the complaint. [1995 c 277 § 36; 1991 c 328 § 18.]

18.165.210 Inability to practice by reason of a mental or physical condition—Statement of charges—Hearing—Sanctions—Mental or physical examinations—Presumed consent for examination. (1) If the director believes a license holder or applicant may be unable to practice with reasonable skill and safety to the public by reason of any mental or physical condition, a statement of charges 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 or safety. If the director 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 director shall impose such sanctions as are deemed necessary to protect the public.

(2) In 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 a mental or physical condition, the department 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 director. The cost of the examinations ordered by the department shall be paid by the department. In addition to any examinations ordered by the department, 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 the license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or withholding 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 public.

(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 if directed in writing by the department and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the director on the ground that the testimony or reports constitute hearsay or privileged communications. [1991 c 328 § 21.]

18.165.220 Unprofessional, unlawful conduct or inability to practice—Penalties. Upon a finding that a license holder or applicant has committed unprofessional or unlawful conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the

director 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 of the practice;
- (4) Requiring the satisfactory completion of a specific program of remedial education or treatment;
- (5) Monitoring of the practice by a supervisor approved by the director;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Withholding a license request;
- (9) Other corrective action;
- (10) Refund of fees billed to and collected from the consumer; or
- (11) Assessing administrative penalties.

Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant. [1995 c 277 § 38; 1991 c 328 § 22.]

18.165.230 Enforcement of orders for payment of fines. If an order for payment of a fine is made as a result of a hearing and timely payment is not made as directed in the final order, the director 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 director may have as to a licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review.

In an action for enforcement of an order of payment of a fine, the director's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment. [1991 c 328 § 23.]

18.165.270 Application of administrative procedure act to acts of the director. The director, in implementing and administering the provisions of this chapter, shall act in accordance with the administrative procedure act, chapter 34.05 RCW. [1991 c 328 § 27.]

18.165.280 License or certificate suspension—Non-payment or default on educational loan or scholarship. The director shall suspend the license or certificate of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license or certificate shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure or cer-

tification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 22.]

Additional notes found at www.leg.wa.gov

18.165.290 License suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend a license issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 836.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.165.300 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 247.]

Additional notes found at www.leg.wa.gov

18.165.310 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 10.]

Chapter 18.170 RCW SECURITY GUARDS

Sections

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- 18.170.310 Military training or experience.
- 18.170.902 Effective date—1995 c 277.

18.170.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Armed private security guard" means a private security guard who has a current firearms certificate issued by the commission and is licensed as an armed private security guard under this chapter.

(2) "Armored vehicle guard" means a person who transports in an armored vehicle under armed guard, from one place to another place, valuables, jewelry, currency, documents, or any other item that requires secure delivery.

(3) "Burglar alarm response runner" means a person employed by a private security company to respond to burglar alarm system signals.

(4) "Burglar alarm system" means a device or an assembly of equipment and devices used to detect or signal unauthorized intrusion, movement, or exit at a protected premises, other than in a vehicle, to which police or private security guards are expected to respond.

(5) "Chief law enforcement officer" means the elected or appointed police administrator of a municipal, county, or state police or sheriff's department that has full law enforcement powers in its jurisdiction.

(6) "Classroom instruction" means training that takes place in a setting where individuals receiving training are assembled together and learn through lectures, study papers, class discussion, textbook study, or other means of organized formal education techniques, such as video, closed circuit, or other forms of electronic means, and as distinguished from individual instruction.

(7) "Commission" means the criminal justice training commission established in chapter 43.101 RCW.

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

(9) "Department-certified trainer" means any person who has been approved by the department by receiving a passing score on a department-administered examination, to administer department-provided examinations and attest that training or testing requirements have been met.

(10) "Director" means the director of the department of licensing.

(11) "Employer" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent of any of the foregoing that employs or seeks to

enter into an arrangement to employ any person as a private security guard.

(12) "Firearms certificate" means the certificate issued by the commission.

(13) "Individual instruction" means training that takes place either on-the-job or through formal education techniques, such as video, closed circuit, internet, or other forms of electronic means, and as distinguished from classroom instruction.

(14) "Licensee" means a person granted a license required by this chapter.

(15) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(16) "Primary responsibility" means activity that is fundamental to, and required or expected in, the regular course of employment and is not merely incidental to employment.

(17) "Principal corporate officer" means the president, vice president, treasurer, secretary, comptroller, or any other person who performs the same functions for the corporation as performed by these officers.

(18) "Private security company" means a person or entity licensed under this chapter and engaged in the business of providing the services of private security guards on a contractual basis.

(19) "Private security guard" means an individual who is licensed under this chapter and principally employed as or typically referred to as one of the following:

- (a) Security officer or guard;
- (b) Patrol or merchant patrol service officer or guard;
- (c) Armed escort or bodyguard;
- (d) Armored vehicle guard;
- (e) Burglar alarm response runner; or
- (f) Crowd control officer or guard.

(20) "Qualifying agent" means an officer or manager of a corporation who meets the requirements set forth in this chapter for obtaining a license to own or operate a private security company.

(21) "Sworn peace officer" means a person who is an employee of the federal government, the state, a political subdivision, agency, or department branch of a municipality, or other unit of local government, and has law enforcement powers. [2007 c 306 § 1; 2007 c 154 § 1; 2004 c 50 § 1; 1991 c 334 § 1.]

Reviser's note: This section was amended by 2007 c 154 § 1 and by 2007 c 306 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

18.170.020 Exemptions. The requirements of this chapter do not apply to:

(1) A person who is employed exclusively or regularly by one employer and performs the functions of a private security guard solely in connection with the affairs of that employer, if the employer is not a private security company. However, in accordance with RCW 69.50.382, an employee engaged in marijuana-related transportation or delivery services on behalf of a common carrier must be licensed as an armed private security guard under this chapter in order to be

authorized to carry or use a firearm while providing such services;

(2) A sworn peace officer while engaged in the performance of the officer's official duties;

(3) A sworn peace officer while employed by any person to engage in off-duty employment as a private security guard, but only if the employment is approved by the chief law enforcement officer of the jurisdiction where the employment takes place and the sworn peace officer does not employ, contract with, or broker for profit other persons to assist him or her in performing the duties related to his or her private employer; or

(4)(a) A person performing crowd management or guest services including, but not limited to, a person described as a ticket taker, usher, door attendant, parking attendant, crowd monitor, or event staff who:

(i) Does not carry a firearm or other dangerous weapon including, but not limited to, a stun gun, taser, pepper mace, or nightstick;

(ii) Does not wear a uniform or clothing readily identifiable by a member of the public as that worn by a private security officer or law enforcement officer; and

(iii) Does not have as his or her primary responsibility the detainment of persons or placement of persons under arrest.

(b) The exemption provided in this subsection applies only when a crowd has assembled for the purpose of attending or taking part in an organized event, including preevent assembly, event operation hours, and postevent departure activities. [2015 2nd sp.s. c 4 § 504; 2007 c 154 § 2; 2006 c 173 § 1; 1991 c 334 § 2.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

18.170.030 Security guard license—Requirements.

An applicant must meet the following minimum requirements to obtain a private security guard license:

(1) Be at least eighteen years of age;

(2) Be a citizen of the United States or a resident alien;

(3) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to his or her capacity to perform the duties of a private security guard, and the director determines that the license should be withheld to protect the citizens of Washington state. The director shall make her or his determination to withhold a license because of previous convictions notwithstanding the restoration of employment rights act, chapter 9.96A RCW;

(4) Be employed by or have an employment offer from a licensed private security company or be licensed as a private security company;

(5) Satisfy the training requirements established by the director;

(6) Submit a set of fingerprints; however, if an applicant has been issued a license as a private investigator under chapter 18.165 RCW within the last twelve months, the applicant is not required to undergo a separate background check to become licensed under this chapter;

(7) Pay the required nonrefundable fee for each application; and

(8) Submit a fully completed application that includes proper identification on a form prescribed by the director for each company of employment. [2012 c 118 § 2; 1995 c 277 § 1; 1991 c 334 § 3.]

18.170.040 Armed private security guard license—Requirements. (1) An applicant must meet the following minimum requirements to obtain an armed private security guard license:

(a) Be licensed as a private security guard;

(b) Be at least twenty-one years of age;

(c) Have a current firearms certificate issued by the commission; and

(d) Pay the fee established by the director.

(2) An armed private security guard license may take the form of an endorsement to the security guard license if deemed appropriate by the director. [1991 c 334 § 4.]

18.170.050 Armed private security guard license authority—Registration of firearms. (1) An armed private security guard license grants authority to the holder, while in the performance of his or her duties, to carry a firearm with which the holder has met the proficiency requirements established by the commission.

(2) All firearms carried by armed private security guards in the performance of their duties must be owned or leased by the employer and, if required by law, must be registered with the proper government agency. [1991 c 334 § 5.]

18.170.060 Private security company license—Requirements, restrictions—Qualifying agent—Assignment or transfer of license. (1) In addition to meeting the minimum requirements to obtain a license as a private security guard, an applicant, or, in the case of a partnership, each partner, or, in the case of a corporation, the qualifying agent must meet the following requirements to obtain a license to own or operate a private security company:

(a) Possess three years' experience as a manager, supervisor, or administrator in the private security business or a related field approved by the director, or be at least twenty-one years of age and pass an examination determined by the director to measure the person's knowledge and competence in the private security business;

(b) Meet the insurance requirements of this chapter; and

(c) Pay any additional fees established by the director.

(2) If the qualifying agent upon whom the licensee relies to comply with subsection (1) of this section ceases to perform his or her duties on a regular basis, the licensee must promptly notify the director by certified or registered mail. Within sixty days of sending notification to the director, the licensee must obtain a substitute qualifying agent who meets the requirements of this section. The director may extend the period for obtaining a substitute qualifying agent.

(3) A company license issued pursuant to this section may not be assigned or transferred without prior written approval of the director.

(4) No license to own or operate a private security guard company may be issued to an applicant if the name of the company portrays the company as a public law enforcement agency, or in association with a public law enforcement

agency, or includes the word "police." [1995 c 277 § 4; 1991 c 334 § 6.]

18.170.070 License cards and certificates—Issuance and requirements. (1) The director shall issue a private security guard license card to each licensed private security guard and an armed private security guard license card to each armed private security guard.

(a) The license card may not be used as security clearance.

(b) A private security guard shall carry the license card whenever he or she is performing the duties of a private security guard and shall exhibit the card upon request.

(c) An armed private security guard shall carry the license card whenever he or she is performing the duties of an armed private security guard and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed private security company.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1995 c 277 § 5; 1991 c 334 § 7.]

18.170.080 Licensed private security companies—Certificate of insurance required. A licensed private security company shall file and maintain with the director a certificate of insurance as evidence that it has comprehensive general liability coverage of at least twenty-five thousand dollars for bodily or personal injury and twenty-five thousand dollars for property damage. [1991 c 334 § 8.]

18.170.090 Temporary registration cards—Requirements—Expiration—Suspension. (1) A licensed private security company may issue an employee a temporary registration card of the type and form provided by the director, but only after the employee has completed preassignment training and submitted a full and complete application for a private security guard license to the department. The application must be mailed to the department within three business days after issuance of the temporary registration card. The temporary registration card is valid for a maximum period of sixty days and does not authorize a person to carry firearms during the performance of his or her duties as a private security guard. The temporary registration card permits the applicant to perform the duties of a private security guard for the issuing licensee.

(2016 Ed.)

(2) Upon expiration of a temporary registration card or upon the receipt of a permanent registration card or notification from the department that a permanent license is being withheld from an applicant, the applicant shall surrender his or her temporary registration card to the licensee.

(3) The director may suspend the authority to use temporary registration cards for a period of one year for any private security guard company that fails to comply with the provisions of this section. After the suspension period, the director may reinstate the company's use of temporary registration cards after receipt of a written request from the company. [1995 c 277 § 6; 1991 c 334 § 9.]

18.170.105 Training requirements. (1) To promote the safety of persons and the security of property, the director shall meet with interested parties to develop lists of suggested preassignment, postassignment, and postassignment refresher training by rule.

(2) All security guards licensed on or after July 1, 2005, must complete at least eight hours of preassignment training, comprised of at least four hours of classroom instruction and an additional four hours of classroom instruction or individual instruction, or both. The preassignment training may be waived for any individual who was most recently employed full time as a sworn peace officer not more than five years prior to applying to become licensed as a private security guard and who passes the examination typically administered to applicants at the conclusion of the preassignment training.

(3)(a) All security guards licensed on or after July 1, 2005, must complete at least eight hours of initial postassignment training that shall be administered to each security guard. The initial postassignment training must be in the topic areas established by the director and may be classroom instruction or individual instruction, or both. A company may waive the initial postassignment training for security guards already licensed who transfer from another company, if the security guard presents appropriate training records signed by a department-certified trainer from the previous company, or a signed affidavit that the individual has already completed the required initial postassignment training provided by his or her previous company.

(b) Security guards who received their temporary security guard registration card on or before July 22, 2007, must receive their initial postassignment training before June 30, 2008. Security guards who received their temporary security guard registration card after July 22, 2007, must receive their initial postassignment training as specified in (c) and (d) of this subsection.

(c) Security guards licensed between January 1st and June 30th of any calendar year may receive eight hours of initial postassignment training any time between the day following the issuance of a temporary security guard registration card with their company and June 30th of the year following initial issuance of their license by the department.

(d) Security guards initially licensed between July 1st and December 31st of any calendar year may receive eight hours of initial postassignment training at any time between the day following the issuance of a temporary security guard registration card with their company and December 31st of the year following initial issuance of their license by the department.

(4) Following completion of the preassignment and postassignment training, at least four total hours of annual refresher training shall be administered to security guards each subsequent year. The subsequent year begins, for refresher training purposes, the day following the last date the security guard is required to receive the eight hours of initial postassignment training. No more than one hour per year of annual refresher training may focus directly on customer service-related skills or topics and the remaining three hours per year of annual refresher training must focus on emergency response concepts, skills, or topics including but not limited to knowledge of site post orders or life safety.

(5) Companies must maintain records regarding the training hours completed by each employee. All such records are subject to inspection by the department. The training requirements and test results must be recorded and attested to by a department-certified trainer. Training records must contain a description of the topics covered, the name and signature of the trainer, and the name and signature of the security guard. [2007 c 306 § 2.]

18.170.110 Required notice of certain occurrences.

(1) A private security company shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed private security guard or armed private security guard by returning the license to the department with the word "terminated" written across the face of the license, the date of termination, and the signature of the principal or the principal's designee of the private security guard company.

(2) A private security company shall notify the department within seventy-two hours and the chief law enforcement officer of the county, city, or town in which the private security guard or armed private security guard was last employed immediately upon receipt of information affecting his or her continuing eligibility to hold a license under the provisions of this chapter.

(3) A private security guard company shall notify the local law enforcement agency whenever an employee who is an armed private security guard discharges his or her firearm while on duty other than on a supervised firearm range. The notification shall be made within ten business days of the date the firearm is discharged. [2000 c 171 § 39; 1995 c 277 § 8; 1991 c 334 § 11.]

18.170.120 Out-of-state licensees—Application—Fee—Temporary assignment.

(1) Any person from another state that the director determines has selection, training, and other requirements at least equal to those required by this chapter, and who holds a valid license, registration, identification, or similar card issued by the other state, may apply for a private security guard license card or armed private security guard license card on a form prescribed by the director. Upon receipt of a processing fee to be determined by the director, the director shall issue the individual a private security guard license card or armed private security guard license card.

(2) A valid private security guard license, registration, identification, or similar card issued by any other state of the United States is valid in this state for a period of ninety days, but only if the licensee is on temporary assignment as a private security guard for the same employer that employs the

licensee in the state in which he or she is a permanent resident.

(3) A person from another state on temporary assignment in Washington may not solicit business in this state or represent himself or herself as licensed in this state. [1995 c 277 § 9; 1991 c 334 § 12.]

18.170.130 Investigation of applicants. (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria.

(2) After receipt of an application for a license, the director shall conduct an investigation to determine whether the facts set forth in the application are true and shall request that the Washington state patrol compare the fingerprints submitted with the application to fingerprint records available to the Washington state patrol. The Washington state patrol shall forward the fingerprints of applicants for an armed private security guard license to the federal bureau of investigation for a national criminal history records check. The director may require that fingerprint cards of licensees be periodically reprocessed to identify criminal convictions subsequent to registration.

(3) The director shall solicit comments from the chief law enforcement officer of the county and city or town in which the applicant's employer is located on issuance of a permanent private security guard license.

(4) A summary of the information acquired under this section, to the extent that it is public information, shall be forwarded by the department to the applicant's employer. [1995 c 277 § 10; 1991 c 334 § 13.]

18.170.140 Regulatory provisions exclusive—Authority of the state and political subdivisions.

(1) The provisions of this chapter relating to the licensing for regulatory purposes of private security guards, armed private security guards, and private security companies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business license fee, business and occupation tax, or other tax upon private security companies if such fees or taxes are levied on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing or regulating private security companies with respect to activities performed or offered that are not of a security nature. [1991 c 334 § 14.]

18.170.150 Out-of-state private security guards operating across state lines.

Private security guards or armed private security guards whose duties require them to operate across state lines may operate in this state if they are properly registered and certified in another state with training, insurance, and certification requirements that the director finds are at least equal to the requirements of this state. [1991 c 334 § 15.]

18.170.160 Licenses required—Use of public law enforcement insignia prohibited—Penalties—Enforcement. (1) After June 30, 1992, any person who performs the functions and duties of a private security guard in this state without being licensed in accordance with this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) After January 1, 1992, a person is guilty of a gross misdemeanor if he or she owns or operates a private security company in this state without first obtaining a private security license.

(3) After June 30, 1992, the owner or qualifying agent of a private security company is guilty of a gross misdemeanor if he or she employs an unlicensed person to perform the duties of a private security guard without issuing the employee a valid temporary registration card if the employee does not have in his or her possession a permanent private security guard license issued by the department. This subsection does not preclude a private security company from requiring applicants to attend preassignment training classes or from paying wages for attending the required preassignment training classes.

(4) After June 30, 1992, a person is guilty of a gross misdemeanor if he or she performs the functions and duties of an armed private security guard in this state unless the person holds a valid armed private security guard license issued by the department.

(5) After June 30, 1992, it is a gross misdemeanor for a private security company to hire, contract with, or otherwise engage the services of an unlicensed armed private security guard knowing that he or she does not have a valid armed private security guard license issued by the director.

(6) It is a gross misdemeanor for a person to possess or use any vehicle or equipment displaying the word "police" or "law enforcement officer" or having any sign, shield, marking, accessory, or insignia that indicates that the equipment or vehicle belongs to a public law enforcement agency.

(7) It is a gross misdemeanor for any person who performs the functions and duties of a private security guard to use any name that includes the word "police" or "law enforcement" or that portrays the individual or a business as a public law enforcement agency.

(8) It is the duty of all officers of the state and political subdivisions thereof to enforce the provisions of this chapter. The attorney general shall act as legal adviser of the director, and render such legal assistance as may be necessary in carrying out the provisions of this chapter. [1995 c 277 § 11; 1991 c 334 § 16.]

18.170.163 License or certificate suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license or certificate of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must

provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license or certificate shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 23.]

Additional notes found at www.leg.wa.gov

18.170.164 License suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend any license issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 838.]

*Reviser's note: 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.170.165 Transfer of license. A licensee who transfers from one company to another must submit a transfer application on a form prescribed by the director along with a transfer fee established by the director. [1995 c 277 § 2.]

18.170.170 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the following conduct, acts, or conditions constitute unprofessional conduct:

(1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Practicing fraud, deceit, or misrepresentation in any of the private security activities covered by this chapter;

(3) Knowingly making a material misstatement or omission in the application for a firearms certificate;

(4) Not meeting the qualifications set forth in RCW 18.170.030, 18.170.040, or 18.170.060;

(5) Failing to return immediately on demand a firearm issued by an employer;

(6) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private security guard license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;

(7) Failing to return immediately on demand any uniform, badge, or other item of equipment issued to the private security guard by an employer;

(8) Making any statement that would reasonably cause another person to believe that the private security guard is a sworn peace officer;

(9) Divulging confidential information that may compromise the security of any premises, or valuables shipment, or any activity of a client to which he or she was assigned;

(10) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.170.060;

(11) Failure to maintain insurance; and

(12) Failure to have a qualifying principal in place. [2002 c 86 § 248; 1997 c 58 § 837; 1995 c 277 § 12; 1991 c 334 § 17.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.170.175 Display of firearms while soliciting clients. No licensee, employee or agent of a licensee, or anyone accompanying a licensee, employee, or agent may display a firearm while soliciting a client. [1995 c 277 § 3.]

18.170.180 Authority of director. The director or the director's designee has the following authority in administering this chapter:

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

(2) To adopt standards of professional conduct or practice; and

(3) To employ such administrative and clerical staff as necessary for the enforcement of this chapter. [2007 c 256 § 9; 2002 c 86 § 249; 1991 c 334 § 18.]

Additional notes found at www.leg.wa.gov

18.170.210 Application of administrative procedure act to hearings. The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern all hearings before the director. [1991 c 334 § 21.]

18.170.220 Inability to practice by reason of a mental or physical condition—Statement of charges—Hearing—Sanctions—Examinations—Presumed consent. (1) If the director believes a license holder or applicant may be unable to practice with reasonable skill and safety to the public by reason of a mental or physical condition, a statement of charges 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 or safety. If the director 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 director shall impose such sanctions as are deemed necessary to protect the public.

(2) In 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 a mental or phys-

ical condition, the department 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 director. The cost of the examinations ordered by the department shall be paid by the department. In addition to any examinations ordered by the department, 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 the license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or withholding 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 public.

(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 if directed in writing by the department and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the director on the ground that the testimony or reports constitute hearsay or privileged communications. [1991 c 334 § 22.]

18.170.230 Unprofessional conduct or inability to practice—Penalties. 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 director 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 of the practice;
- (4) Requiring the satisfactory completion of a specific program of remedial education or treatment;
- (5) Monitoring of the practice by a supervisor approved by the director;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Withholding a license request;
- (9) Other corrective action;
- (10) Refund of fees billed to and collected from the consumer; or
- (11) The assessment of administrative penalties.

Any of the actions under this section may be totally or partly stayed by the director. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant. [1995 c 277 § 15; 1991 c 334 § 23.]

18.170.280 Application of administrative procedure act to acts of the director. The director, in implementing and administering the provisions of this chapter, shall act in accordance with the administrative procedure act, chapter 34.05 RCW. [1991 c 334 § 28.]

18.170.290 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 250.]

Additional notes found at www.leg.wa.gov

18.170.300 Reciprocity agreements. The director has the authority to negotiate reciprocity agreements with other states allowing licensed security officers from Washington to work in those other states. [2004 c 50 § 3.]

18.170.310 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 11.]

18.170.902 Effective date—1995 c 277. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 9, 1995]. [1995 c 277 § 41.]

Chapter 18.180 RCW PROCESS SERVERS

Sections

18.180.010	Requirements for process servers—Exceptions.
18.180.020	Registration renewal.
18.180.030	Identification of process server on proof of service.
18.180.035	Fees—Limitations.
18.180.040	Collection of costs of service—Application.
18.180.050	Registration suspension—Nonpayment or default on educational loan or scholarship.
18.180.900	Construction—1992 c 125.

18.180.010 Requirements for process servers—Exceptions. (1) Except as provided in subsection (2) of this section, a person who serves legal process for a fee in the state of Washington shall:

- Be eighteen years of age or older;
- Be a resident of the state of Washington; and
- Register as a process server with the auditor of the county in which the process server resides or operates his or her principal place of business.

(2) The requirements under subsection (1)(b) and (c) of this section do not apply to any of the following persons:

- A sheriff, deputy sheriff, marshal, constable, or government employee who is acting in the course of employment;
- An attorney or the attorney's employees, who are not serving process on a fee basis;
- A person who is court appointed to serve the court's process;

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(d) A person who does not receive a fee or wage for serving process;

(e) A private investigator licensed under chapter 18.165 RCW. [2014 c 203 § 1; 2010 c 108 § 1; 1992 c 125 § 1.]

18.180.020 Registration renewal. A process server required to register under RCW 18.180.010 must renew the registration within one year of the date of the initial registration or when the registrant changes his or her name, the name of his or her business, business address, or business telephone number, whichever occurs sooner. If the renewal is required because of a change in the information identifying the process server, the process server must renew the registration within ten days of the date the identifying information changes. The process server shall pay the registration fee upon renewal. [1992 c 125 § 3.]

18.180.030 Identification of process server on proof of service. (1) A process server required to register under RCW 18.180.010 shall indicate the process server's registration number and the process server's county of registration on any proof of service the process server signs.

(2) Employees of a process server required to register under RCW 18.180.010 shall indicate the employer's registration number and the employer's county of registration on any proof of service the registrant's employee signs. [1992 c 125 § 4.]

18.180.035 Fees—Limitations. (1) A process server required to register under RCW 18.180.010(1) or exempt from registration under *RCW 18.180.010(2) (a), (c), or (d) shall be allowed to charge and collect the following fees in civil actions, suits, and proceedings for each service assignment delivered to the process server for service:

(a) If the fee is not greater than one hundred dollars, then the actual amount charged to a party for service;

(b) If the fee is greater than one hundred dollars, then a reasonable amount charged to a party for service.

(2) Any fees allowable under this section, and actually charged by a process server, shall be a reasonable cost awarded to, and recoverable by, the party incurring same if that party prevails in an action. [2007 c 121 § 2.]

*Reviser's note: RCW 18.180.010 was amended by 2010 c 108 § 1, deleting subsection (2)(d).

18.180.040 Collection of costs of service—Application. (1) Except as provided in subsection (2) of this section, any person who is otherwise entitled to collect the costs of service of process shall not be entitled to collect those costs if the person does not use a process server who under this chapter either is required to register or is exempt from the registration requirement.

(2) The person may collect the costs of the service of process if the process server registers within forty-five days after serving the process.

(3) This section shall apply to all process served on or after August 1, 1992. [1992 c 125 § 5.]

18.180.050 Registration suspension—Nonpayment or default on educational loan or scholarship. The auditor of the county shall suspend the registration of any person who

has been certified by a lending agency and reported to the auditor of the county for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's registration shall not be reissued until the person provides the auditor of the county a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for registration during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the auditor of the county may impose. [1996 c 293 § 25.]

Additional notes found at www.leg.wa.gov

18.180.900 Construction—1992 c 125. Nothing in this act modifies Superior Court Civil Rule 4. [1992 c 125 § 7.]

Chapter 18.185 RCW BAIL BOND AGENTS

Sections

18.185.005	Declaration, intent, construction.
18.185.010	Definitions.
18.185.015	Cost of administration—Fees.
18.185.020	Agent license requirements.
18.185.030	Agency license requirements.
18.185.040	License applications.
18.185.050	License cards, certificates—Advertising—Notice of changes.
18.185.055	License suspension—Nonpayment or default on educational loan or scholarship.
18.185.056	License suspension—Electronic benefit cards.
18.185.057	License suspension—Noncompliance with support order—Reissuance.
18.185.060	Prelicensing training and continuing education requirements.
18.185.070	Bond.
18.185.080	Relation of this chapter to local regulation, taxation.
18.185.090	Notice concerning agent's status—Forced entry—Discharge of firearm.
18.185.100	Records—Finances—Disposition of security.
18.185.110	Unprofessional conduct.
18.185.115	Unprofessional conduct—Certain contracts—General power of attorney—Presumption.
18.185.120	Director's powers.
18.185.130	Complaints.
18.185.140	Statement of charges—Notice.
18.185.170	Unlicensed activity—Criminal penalties.
18.185.200	Application of Administrative Procedure Act.
18.185.210	Application of Consumer Protection Act.
18.185.220	Branch office—Qualified bail bond agent as manager.
18.185.230	License required for branch office.
18.185.240	Uniform regulation of business and professions act.
18.185.250	Bail bond recovery agent license—Requirements.
18.185.260	Bail bond recovery agents—Prelicense training/testing requirements—Continuing education requirements—Rules.
18.185.270	Bail bond agent/bail bond recovery agent—Each fugitive an individual contract—Format of contract.
18.185.280	Bail bond recovery agent, generally.
18.185.290	Out-of-state bail bond recovery agent.
18.185.300	Bail bond recovery agent—Planned forced entry—Requirements.
18.185.310	Military training or experience.
18.185.901	Effective date—1993 c 260.

18.185.005 Declaration, intent, construction. The legislature declares that the licensing of bail bond agents should be uniform throughout the state. Therefore, it is the intent of the legislature to preempt any local regulation of bail

bond agents, including licensing fees, but not including local business license fees. Nothing in this chapter limits the discretion of the courts of this state to accept or reject a particular surety or recognizance bond in a particular case. [1993 c 260 § 1.]

18.185.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Department" means the department of licensing.
- (2) "Director" means the director of licensing.
- (3) "Commission" means the criminal justice training commission.
- (4) "Collateral or security" means property of any kind given as security to obtain a bail bond.
- (5) "Bail bond agency" means a business that sells and issues corporate surety bail bonds or that provides security in the form of personal or real property to ensure the appearance of a criminal defendant before the courts of this state or the United States.
- (6) "Qualified agent" means an owner, sole proprietor, partner, manager, officer, or chief operating officer of a corporation who meets the requirements set forth in this chapter for obtaining a bail bond agency license.
- (7) "Bail bond agent" means a person who is employed by a bail bond agency and engages in the sale or issuance of bail bonds, but does not mean a clerical, secretarial, or other support person who does not participate in the sale or issuance of bail bonds.
- (8) "Licensee" means a bail bond agency, a bail bond agent, a qualified agent, or a bail bond recovery agent.
- (9) "Branch office" means any office physically separated from the principal place of business of the licensee from which the licensee or an employee or agent of the licensee conducts any activity meeting the criteria of a bail bond agency.
- (10) "Bail bond recovery agent" means a person who is under contract with a bail bond agent to receive compensation, reward, or any other form of lawful consideration for locating, apprehending, and surrendering a fugitive criminal defendant for whom a bail bond has been posted. "Bail bond recovery agent" does not include a general authority Washington peace officer or a limited authority Washington peace officer.
- (11) "Contract" means a written agreement between a bail bond agent or qualified agent and a bail bond recovery agent for the purpose of locating, apprehending, and surrendering a fugitive criminal defendant in exchange for lawful consideration.
- (12) "Planned forced entry" means a premeditated forcible entry into a dwelling, building, or other structure without the occupant's knowledge or consent for the purpose of apprehending a fugitive criminal defendant subject to a bail bond. "Planned forced entry" does not include situations where, during an imminent or actual chase or pursuit of a fleeing fugitive criminal defendant, or during a casual or unintended encounter with the fugitive, the bail bond recovery agent forcibly enters into a dwelling, building, or other structure without advanced planning. [2004 c 186 § 2; 2000 c 171 § 40; 1996 c 242 § 1; 1993 c 260 § 2.]

Additional notes found at www.leg.wa.gov

18.185.015 Cost of administration—Fees. Pursuant to RCW 43.24.086 and 43.135.055, the department may increase fees as necessary to defray the cost of administering *chapter 105, Laws of 2008 (Engrossed Substitute Senate Bill No. 6347). [2008 c 285 § 29.]

*Reviser's note: 2008 c 285 § 29 referenced Engrossed Substitute Senate Bill No. 6347. Engrossed Substitute Senate Bill No. 6437 was apparently intended.

Intent—Captions not law—Effective date—2008 c 285: See notes following RCW 43.22.434.

18.185.020 Agent license requirements. An applicant must meet the following minimum requirements to obtain a bail bond agent license:

- (1) Be at least eighteen years of age;
- (2) Be a citizen or resident alien of the United States;
- (3) Not have been convicted of a crime in any jurisdiction in the preceding ten years, if the director determines that the applicant's particular crime directly relates to a capacity to perform the duties of a bail bond agent and the director determines that the license should be withheld to protect the citizens of Washington state. If the director shall make a determination to withhold a license because of previous convictions, the determination shall be consistent with the restoration of employment rights act, chapter 9.96A RCW;
- (4) Be employed by a bail bond agency or be licensed as a bail bond agency; and
- (5) Pay the required fee. [1993 c 260 § 3.]

18.185.030 Agency license requirements. (1) In addition to meeting the minimum requirements to obtain a license as a bail bond agent, a qualified agent must meet the following additional requirements to obtain a bail bond agency license:

- (a) Pass an examination determined by the director to measure the person's knowledge and competence in the bail bond agency business; or
 - (b) Have had at least three years' experience as a manager, supervisor, or administrator in the bail bond business or a related field in Washington state as determined by the director. A year's experience means not less than two thousand hours of actual compensated work performed before the filing of an application. An applicant shall substantiate the experience by written certifications from previous employers. If the applicant is unable to supply written certifications from previous employers, applicants may offer written certifications from persons other than employers who, based on personal knowledge, can substantiate the employment; and
 - (c) Pay any additional fees as established by the director.
- (2) An agency license issued under this section may not be assigned or transferred without prior written approval of the director. [2008 c 105 § 1; 1993 c 260 § 4.]

18.185.040 License applications. (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria, including fingerprints.

(2) Applicants for licensure or endorsement as a bail bond recovery agent must complete a records check through the Washington state patrol criminal identification system

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and through the federal bureau of investigation at the applicant's expense. Such record check shall include a fingerprint check using a Washington state patrol approved fingerprint card. The Washington state patrol shall forward the fingerprints of applicants to the federal bureau of investigation for a national criminal history records check. The director may accept proof of a recent national crime information center/III criminal background report or any national or interstate criminal background report in addition to fingerprints to accelerate the licensing and endorsement process. The director is authorized to periodically perform a background investigation of licensees to identify criminal convictions subsequent to the renewal of a license or endorsement. [2004 c 186 § 4; 1993 c 260 § 5.]

Additional notes found at www.leg.wa.gov

18.185.050 License cards, certificates—Advertising—Notice of changes. (1) The director shall issue a bail bond agent license card to each licensed bail bond agent. A bail bond agent shall carry the license card whenever he or she is performing the duties of a bail bond agent and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed bail bond agency.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1993 c 260 § 6.]

18.185.055 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 26.]

Additional notes found at www.leg.wa.gov

18.185.056 License suspension—Electronic benefit cards. The director shall immediately suspend any license issued under this chapter if the director receives information that the license holder has not complied with RCW 74.08.580(2). If the license holder has otherwise remained eligible to be licensed, the director may reinstate the suspended license when the holder has complied with RCW 74.08.580(2). [2011 1st sp.s. c 42 § 18.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

18.185.057 License suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend any license issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 840.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.185.060 Prelicensing training and continuing education requirements. (1) The director shall adopt rules establishing precense training and testing requirements for bail bond agents, which shall include no less than four hours of classes. The director may establish, by rule, continuing education requirements for bail bond agents.

(2) The director or the director's designee, with the advice of law enforcement agencies and associations, the criminal justice training commission, prosecutors' associations, or such other entities as may be appropriate, shall consult with representatives of the bail bond industry and associations before adopting or amending the precense training or continuing education requirements of this section.

(3) The director may appoint an advisory committee consisting of representatives from the bail bond industry and a consumer to assist in the development of rules to implement and administer this chapter. [2008 c 105 § 2; 1993 c 260 § 7.]

18.185.070 Bond. (1) No bail bond agency license may be issued under the provisions of this chapter unless the qualified agent files with the director a bond, executed by a surety company authorized to do business in this state, in the sum of ten thousand dollars conditioned to recover against the agency and its servants, officers, agents, and employees by reason of its violation of the provisions of RCW 18.185.100. The bond shall be made payable to the state of Washington, and anyone so injured by the agency or its servants, officers, agents, or employees may bring suit upon the bond in any

county in which jurisdiction over the licensee may be obtained. The suit must be brought not later than two years after the failure to return property in accordance with RCW 18.185.100. If valid claims against the bond exceed the amount of the bond or deposit, each claimant shall be entitled only to a pro rata amount, based on the amount of the claim as it is valid against the bond, without regard to the date of filing of any claim or action.

(2) Every licensed bail bond agency must at all times maintain on file with the director the bond required by this section in full force and effect. Upon failure by a licensee to do so, the director shall suspend the licensee's license and shall not reinstate the license until this requirement is met.

(3) In lieu of posting a bond, a qualified agent may deposit in an interest-bearing account, ten thousand dollars.

(4) The director may waive the bond requirements of this section, in his or her discretion, pursuant to adopted rules. [1993 c 260 § 8.]

18.185.080 Relation of this chapter to local regulation, taxation. (1) The provisions of this chapter relating to the licensing for regulatory purposes of bail bond agents and bail bond agencies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business fee, business and occupation tax, or other tax upon bail bond agencies if such fees or taxes are levied by the political subdivision on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing for regulatory purposes bail bond agencies with respect to activities that are not regulated under this chapter. [1993 c 260 § 9.]

18.185.090 Notice concerning agent's status—Forced entry—Discharge of firearm. (1) A bail bond agency shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed bail bond agent.

(2) A bail bond agency shall notify the director within seventy-two hours upon receipt of information affecting a licensed bail bond agent's continuing eligibility to hold a license under the provisions of this chapter.

(3) A bail bond agent or bail bond recovery agent shall notify the director within seventy-two hours upon receipt of information affecting the bail bond recovery agent's continuing eligibility to hold a bail bond recovery agent's license under the provisions of this chapter.

(4) A bail bond recovery agent shall notify the director within ten business days following a forced entry for the purpose of apprehending a fugitive criminal defendant, whether planned or unplanned. The notification under this subsection must include information required by rule of the director.

(5) A bail bond recovery agent shall notify the local law enforcement agency whenever the bail bond recovery agent discharges his or her firearm while on duty, other than on a supervised firearms range. The notification must be made

within ten business days of the date the firearm is discharged. [2008 c 105 § 3; 2004 c 186 § 7; 1993 c 260 § 10.]

Additional notes found at www.leg.wa.gov

18.185.100 Records—Finances—Disposition of security. (1) Every qualified agent shall keep adequate records for three years of all collateral and security received, all trust accounts required by this section, and all bail bond transactions handled by the bail bond agency, as specified by rule. The records shall be open to inspection without notice by the director or authorized representatives of the director.

(2) Every qualified agent who receives collateral or security is a fiduciary of the property and shall keep adequate records for three years of the receipt, safekeeping, and disposition of the collateral or security. Every qualified agent shall maintain a trust account in a federally insured financial institution located in this state. All moneys, including cash, checks, money orders, wire transfers, and credit card sales drafts, received as collateral or security or otherwise held for a bail bond agency's client shall be deposited in the trust account not later than the third banking day following receipt of the funds or money. A qualified agent shall not in any way encumber the corpus of the trust account or commingle any other moneys with moneys properly maintained in the trust account. Each qualified agent required to maintain a trust account shall report annually under oath to the director the account number and balance of the trust account, and the name and address of the institution that holds the trust account, and shall report to the director within ten business days whenever the trust account is changed or relocated or a new trust account is opened.

(3) Whenever a bail bond is exonerated by the court, the qualified agent shall, within five business days after written notification of exoneration, return all collateral or security to the person entitled thereto.

(4) Records of contracts for fugitive apprehension must be retained by the bail bond agent and by the bail bond recovery agent for a period of three years. [2004 c 186 § 8; 1996 c 242 § 3; 1993 c 260 § 11.]

Additional notes found at www.leg.wa.gov

18.185.110 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the following conduct, acts, or conditions constitute unprofessional conduct:

(1) Violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Failing to meet the qualifications set forth in RCW 18.185.020, 18.185.030, and 18.185.250;

(3) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the word, representation, or conduct of the licensee. However, this subsection (3) does not prevent a bail bond recovery agent from using any pretext to locate or apprehend a fugitive criminal defendant or gain any information regarding the fugitive;

(4) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.185.030 or 18.185.250;

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(5) Conversion of any money or contract, deed, note, mortgage, or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, or other evidence of title within thirty days after the owner is entitled to possession, and makes demand for possession, shall be prima facie evidence of conversion;

(6) Failing to keep records, maintain a trust account, or return collateral or security, as required by RCW 18.185.100;

(7) Any conduct in a bail bond transaction which demonstrates bad faith, dishonesty, or untrustworthiness;

(8) Violation of an order to cease and desist that is issued by the director under chapter 18.235 RCW;

(9) Wearing, displaying, holding, or using badges not approved by the department;

(10) Making any statement that would reasonably cause another person to believe that the bail bond recovery agent is a sworn peace officer;

(11) Failing to carry a copy of the contract or to present a copy of the contract as required under RCW 18.185.270(1);

(12) Using the services of an unlicensed bail bond recovery agent or using the services of a bail bond recovery agent without issuing the proper contract;

(13) Misrepresenting or knowingly making a material misstatement or omission in the application for a license;

(14) Using the services of a person performing the functions of a bail bond recovery agent who has not been licensed by the department as required by this chapter;

(15) Performing the functions of a bail bond recovery agent without being both (a) licensed under this chapter or supervised by a licensed bail bond recovery agent under RCW 18.185.290; and (b) under contract with a bail bond agent;

(16) Performing the functions of a bail bond recovery agent without exercising due care to protect the safety of persons other than the defendant and the property of persons other than the defendant; or

(17) Using a dog in the apprehension of a fugitive criminal defendant. [2008 c 105 § 4; 2007 c 256 § 2; 2004 c 186 § 9; 2002 c 86 § 251; 1993 c 260 § 12.]

Additional notes found at www.leg.wa.gov

18.185.115 Unprofessional conduct—Certain contracts—General power of attorney—Presumption. Entering into a contract, including a general power of attorney, that gives a bail bond agent full authority over a person's finances, assets, real property, or personal property creates a presumption of unprofessional conduct that may be overcome by a preponderance of the evidence presented to the department to the contrary. The department has the discretion to determine whether or not the bail bond agency or agent has overcome the presumption and if unprofessional conduct was committed. [2016 c 73 § 1.]

18.185.120 Director's powers. In addition to those powers set forth in RCW 18.235.030, the director or the director's designee has the authority to order restitution to the person harmed by the licensee. [2007 c 256 § 3; 2002 c 86 § 252; 1993 c 260 § 13.]

Additional notes found at www.leg.wa.gov

18.185.130 Complaints. Any person may submit a written complaint to the department charging a license holder or applicant with unprofessional conduct and specifying the grounds for the charge. If the director determines that the complaint merits investigation, or if the director has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the director shall investigate to determine if there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint. [1993 c 260 § 14.]

18.185.140 Statement of charges—Notice. When a statement of charges is issued against a license holder or applicant under RCW 18.235.050, notice of this action must be given to the owner or qualified agent of the employing bail bond agency. [2002 c 86 § 253; 1993 c 260 § 15.]

Additional notes found at www.leg.wa.gov

18.185.170 Unlicensed activity—Criminal penalties. (1) Any person who performs the functions and duties of a bail bond agent in this state without being licensed in accordance with the provisions of this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) A person is guilty of a gross misdemeanor if the person owns or operates a bail bond agency in this state without first obtaining a bail bond agency license.

(3) The owner or qualified agent of a bail bond agency is guilty of a gross misdemeanor if the owner or qualified agent employs any person to perform the duties of a bail bond agent without the employee having in the employee's possession a permanent bail bond agent license issued by the department.

(4) After December 31, 2005, a person is guilty of a gross misdemeanor if the person:

(a) Performs the functions of a bail bond recovery agent without first obtaining a license from the department and entering into a contract with a bail bond agent as required by this chapter; or, in the case of a bail bond recovery agent from another state, the person performs the functions of a bail bond recovery agent without operating under the direct supervision of a licensed bail bond recovery agent as required by this chapter; or

(b) Conducts a planned forced entry without first complying with the requirements of this chapter. [2004 c 186 § 13; 2002 c 86 § 254; 1993 c 260 § 18.]

Additional notes found at www.leg.wa.gov

18.185.200 Application of Administrative Procedure Act. The director, in implementing and administering the provisions of this chapter, shall act in accordance with the Administrative Procedure Act, chapter 34.05 RCW. [1993 c 260 § 21.]

18.185.210 Application of Consumer Protection Act. Failure to fulfill the fiduciary duties and other duties as prescribed in RCW 18.185.100 is not reasonable in relation to the development and preservation of business. A violation of RCW 18.185.100 is an unfair or deceptive act in trade or commerce for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. [1993 c 260 § 22.]

18.185.220 Branch office—Qualified bail bond agent as manager. A branch office may not operate under a business name other than the name of the principal bail bond agency and must have a qualified bail bond agent as manager of the office. The qualified agent shall comply with the provisions of RCW 18.185.100. [1996 c 242 § 2.]

18.185.230 License required for branch office. If a licensee maintains a branch office, the licensee shall not operate that branch office until a branch office license has been received from the director. A bail bond agency may apply to the director for authority to establish one or more branch offices under the same name as the main office upon the payment of a fee as prescribed by the director by rule. The director shall issue a separate license for each branch office showing the location of each branch which shall be prominently displayed in the office for which it is issued. A corporation, partnership, or sole proprietorship shall not establish more than one principal office within this state. [1996 c 242 § 4.]

18.185.240 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 255.]

Additional notes found at www.leg.wa.gov

18.185.250 Bail bond recovery agent license—Requirements. An applicant must meet the following requirements to obtain a bail bond recovery agent license:

(1) Submit a fully completed application that includes proper identification on a form prescribed by the director;

(2) Pass an examination determined by the director to measure his or her knowledge and competence in the bail recovery business;

(3) Be at least twenty-one years old;

(4) Be a citizen or legal resident alien of the United States;

(5) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to a capacity to perform the duties of a bail bond recovery agent, and that the license should be withheld to protect the citizens of Washington state. The director shall make the director's determination to withhold a license because of previous convictions notwithstanding the restoration of employment rights act, chapter 9.96A RCW;

(6) Not have had certification as a peace officer revoked or denied under chapter 43.101 RCW, unless certification has subsequently been reinstated under RCW 43.101.115;

(7) Submit a receipt showing payment for a background check through the Washington state patrol and the federal bureau of investigation;

(8) Have a current firearms certificate issued by the commission if carrying a firearm in the performance of his or her duties as a bail bond recovery agent;

(9)(a) Have a current license or equivalent permit to carry a concealed pistol;

(b) A resident alien must provide a copy of his or her alien firearm license; and

(10)(a) Pay the required nonrefundable fee for each application for a bail bond recovery agent license;

(b) A bail bond agent or qualified agent who wishes to perform the duties of a bail bond recovery agent must first obtain a bail bond recovery agent endorsement to his or her bail bond agent or agency license in order to act as a bail bond recovery agent, and pay the required nonrefundable fee for each application for a bail bond recovery agent endorsement. [2008 c 105 § 5; 2004 c 186 § 3.]

Additional notes found at www.leg.wa.gov

18.185.260 Bail bond recovery agents—Preliminary training/testing requirements—Continuing education requirements—Rules. (1) The director shall adopt rules establishing preliminary training and testing requirements for bail bond recovery agents, which shall include no less than thirty-two hours of field operations classes. The director may establish, by rule, continuing education and recertification requirements for bail bond recovery agents.

(2) The director or the director's designee, with the advice of law enforcement agencies and associations, the criminal justice training commission, prosecutors' associations, or such other entities as may be appropriate, shall consult with representatives of the bail bond industry and associations before adopting or amending the preliminary training, testing, and continuing education and recertification requirements of this section and shall establish minimum exam standards necessary for a bail bond recovery agent to qualify for licensure or endorsement.

(3) The standards must include, but are not limited to, the following:

(a) A minimum level of education or experience appropriate for performing the duties of a bail bond recovery agent;

(b) A minimum level of knowledge in relevant areas of criminal and civil law;

(c) A minimum level of knowledge regarding the appropriate use of force and different degrees of the use of force; and

(d) Adequate training of the use of firearms from the criminal justice training commission, from an instructor who has been trained or certified by the criminal justice training commission, or from another entity approved by the director.

(4) The legislature does not intend, and nothing in this chapter shall be construed to restrict or limit in any way the powers of bail bond agents as recognized in and derived from the United States supreme court case of *Taylor v. Taintor*, 16 Wall. 366 (1872). [2008 c 105 § 6; 2004 c 186 § 5.]

Additional notes found at www.leg.wa.gov

18.185.270 Bail bond agent/bail bond recovery agent—Each fugitive an individual contract—Format of contract. (1) Each fugitive criminal defendant to be recovered will be treated as an individual contract between the bail bond agent and the bail bond recovery agent. A bail bond

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agent shall provide a bail bond recovery agent a copy of each individual contract. A bail bond recovery agent must carry, in addition to the license issued by the department, a copy of the contract and, if requested, must present a copy of the contract and the license to the fugitive criminal defendant, the owner or manager of the property in which the agent entered in order to locate or apprehend the fugitive, other residents, if any, of the residence in which the agent entered in order to locate or apprehend the fugitive, and to the local law enforcement agency or officer. If presenting a copy of the contract or the license at the time of the request would unduly interfere with the location or apprehension of the fugitive, the agent shall present the copy of the contract or the license within a reasonable period of time after the exigent circumstances expire.

(2) The director, or the director's designee, with the advice of the bail bond industry and associations, law enforcement agencies and associations, and prosecutors' associations shall develop a format for the contract. At a minimum, the contract must include the following:

(a) The name, address, phone number, and license number of the bail bond agency or bail bond agent contracting with the bail bond recovery agent;

(b) The name and license number of the bail bond recovery agent; and

(c) The name, last known address, and phone number of the fugitive. [2004 c 186 § 6.]

Additional notes found at www.leg.wa.gov

18.185.280 Bail bond recovery agent, generally. (1) A person may not perform the functions of a bail bond recovery agent unless the person is licensed by the department under this chapter.

(2) A bail bond agent may contract with a person to perform the functions of a bail bond recovery agent. Before contracting with the bail bond recovery agent, the bail bond agent must check the license issued by the department under this chapter. The requirements established by the department under this chapter do not prevent the bail bond agent from imposing additional requirements that the bail bond agent considers appropriate.

(3) A contract entered into under this chapter is authority for the person to perform the functions of a bail bond recovery agent as specifically authorized by the contract and in accordance with applicable law. A contract entered into by a bail bond agent with a bail bond recovery agent is not transferable by the bail bond recovery agent to another bail bond recovery agent.

(4) Whenever a person licensed by the department as a bail bond recovery agent is engaged in the performance of the person's duties as a bail bond recovery agent, the person must carry a copy of the license.

(5) A license or endorsement issued by the department under this chapter is valid from the date the license or endorsement is issued until its expiration date unless it is suspended or revoked by the department prior to its expiration date.

(6) Nothing in this chapter is meant to prevent a bail bond agent from contacting a fugitive criminal defendant for the purpose of requesting the surrender of the fugitive, or

from accepting the voluntary surrender of the fugitive. [2008 c 105 § 7; 2004 c 186 § 10.]

Additional notes found at www.leg.wa.gov

18.185.290 Out-of-state bail bond recovery agent. A bail bond recovery agent from another state who is not licensed under this chapter may not perform the functions of a bail bond recovery agent in this state unless the agent is working under the direct supervision of a licensed bail bond recovery agent. [2004 c 186 § 11.]

Additional notes found at www.leg.wa.gov

18.185.300 Bail bond recovery agent—Planned forced entry—Requirements. (1) Before a bail bond recovery agent may apprehend a person subject to a bail bond in a planned forced entry, the bail bond recovery agent must:

(a) Have reasonable cause to believe that the defendant is inside the dwelling, building, or other structure where the planned forced entry is expected to occur; and

(b) Notify an appropriate law enforcement agency in the local jurisdiction in which the apprehension is expected to occur. Notification must include, at a minimum: The name of the defendant; the address, or the approximate location if the address is undeterminable, of the dwelling, building, or other structure where the planned forced entry is expected to occur; the name of the bail bond recovery agent; the name of the contracting bail bond agent; and the alleged offense or conduct the defendant committed that resulted in the issuance of a bail bond.

(2) During the actual planned forced entry, a bail bond recovery agent:

(a) Shall wear a shirt, vest, or other garment with the words "BAIL BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT AGENT" displayed in at least two-inch-high reflective print letters across the front and back of the garment and in a contrasting color to that of the garment; and

(b) May display a badge approved by the department with the words "BAIL BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT AGENT" prominently displayed.

(3) Any law enforcement officer who assists in or is in attendance during a planned forced entry is immune from civil action for damages arising out of actions taken by the bail bond recovery agent or agents conducting the forced entry. [2008 c 105 § 8; 2004 c 186 § 12.]

Additional notes found at www.leg.wa.gov

18.185.310 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 12.]

18.185.901 Effective date—1993 c 260. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 260 § 25.]

Additional notes found at www.leg.wa.gov

Chapter 18.190 RCW OPERATION AS LIMITED LIABILITY COMPANY

Sections

18.190.010 License—Requirements.

18.190.010 License—Requirements. Any business or profession licensed under this title may operate as a limited liability company formed under chapter 25.15 RCW. Any such limited liability company must be licensed as a limited liability company in accordance with the otherwise applicable licensing provisions of this title. Any such limited liability company shall meet the following requirements:

(1) The principal purpose and business of the limited liability company shall be to furnish services to the public which are consistent with the applicable chapter under this title;

(2) At least one manager of the limited liability company shall be a person licensed under the applicable chapter under this title; and

(3) Each resident manager or member in charge of an office of the limited liability company in this state and each resident manager or member personally engaged within this state in the business or profession of the company shall be licensed under the applicable chapter under this title. [1994 c 211 § 1403.]

Additional notes found at www.leg.wa.gov

Chapter 18.195 RCW CONSUMER ACCESS TO VISION CARE ACT

Sections

18.195.010 Findings—Intent.

18.195.020 Definitions.

18.195.030 Prohibited practices—Separation of examination and dispensing—Notice—Duplication of lenses.

18.195.040 Prescription not referring to contacts—Verification of performance—Notice—Prescription time limit—Safety notice—Noncompliance.

18.195.050 Rule making—Effect.

18.195.900 Short title.

18.195.901 Construction.

18.195.010 Findings—Intent. The legislature finds that in the newly reformed health care delivery system it is necessary to clarify providers' roles to ensure that they are working together to maximize patient access while controlling costs. This is especially important in the vision care industry, where the potential for confusion exists due to some overlapping scopes of practice among licensed providers.

The legislature finds that boards regulating health care professions should be mindful of the necessary balance between public safety and access to affordable care, and adopt rules that are consistent with their legislative intent. The risk that this balance may be lost is especially high in the optical industry, where competitive pressures have led to the involvement of the federal trade commission. The legislature recognizes its role in ensuring appropriate access to vision care for state residents by clarifying necessary prescription content and ensuring prescription release to the patient. [1994 c 106 § 1.]

18.195.020 Definitions. For purposes of this chapter, the following definitions apply:

(1) "Dispensing" means the retail delivery of ophthalmic goods to the patient by a prescriber or optician.

(2) "Eye examination" means a testing process administered by a prescriber that includes the process of determining the refractive condition of a patient's eyes. If requested by the patient, it also determines the appropriateness of contact lenses.

(3) "Fitting" means the performance of mechanical procedures and measurements necessary to adapt and fit eyeglasses or contact lenses from a written prescription. In the case of contact lenses, the prescription must be in writing and fitting includes the selection of the physical characteristics of the lenses including conversion of the spectacle power to contact lens equivalents, lens design, material and manufacturer of the lenses, and supervision of the trial wearing of the lenses which may require incidental revisions during the fitting period. The revisions may not alter the effect of the written prescription.

(4) "Ophthalmic goods" means eyeglasses or a component or components of eyeglasses, and contact lenses.

(5) "Ophthalmic services" means the measuring, fitting, adjusting, and fabricating of ophthalmic goods subsequent to an eye examination.

(6) "Optician" means a person licensed under chapter 18.34 RCW.

(7) "Patient" means a person who has had an eye examination.

(8) "Practitioner" includes prescribers and opticians.

(9) "Prescriber" means an ophthalmologist or optometrist who performs eye examinations under chapter 18.53, 18.57, or 18.71 RCW.

(10) "Prescription" means the written directive from a prescriber for corrective lenses and consists of the refractive powers. If the patient wishes to purchase contact lenses, the prescription must contain a notation that the patient is "OK for contacts" or similar language confirming there are no contraindications for contacts.

(11) "Secretary" means the secretary of the department of health. [1994 c 106 § 2.]

18.195.030 Prohibited practices—Separation of examination and dispensing—Notice—Duplication of lenses. (1) No prescriber shall:

(a) Fail to provide to the patient one copy of the patient's prescription at the completion of the eye examination. A prescriber may refuse to give the patient a copy of the patient's prescription until the patient has paid for the eye examination, but only if that prescriber would have required immediate payment from that patient had the examination revealed that no ophthalmic goods were required;

(b) Condition the availability of an eye examination or prescription, or both, to a patient on a requirement that the patient agree to purchase ophthalmic goods from the prescriber or a dispenser approved by the prescriber;

(c) Fail to include a notation of "OK for contacts" or similar language on the prescription if the prescriber would have fitted the patient himself or herself, provided there are no contraindications for contacts, and if the patient has requested contact lenses. Such a notation will indicate to the practitioner fitting the contact lenses that the initial fitting and follow-up must be completed within six months of the date of

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the eye examination. The prescriber will inform the patient that failure to complete the initial fitting and obtain the follow-up evaluation by a prescriber within the six-month time frame will void the "OK for contacts" portion of the prescription. The prescriber who performs the follow-up will place on the prescription "follow-up completed," or similar language, and include his or her name and the date of the follow-up. Patients who comply with both the initial fitting and follow-up requirements will then be able to obtain replacement contact lenses until the expiration date listed on the prescription. If the prescriber concludes the ocular health of the eye presents a contraindication for contact lenses, a verbal explanation of that contraindication must be given to the patient by the prescriber at the time of the eye examination and documentation maintained in the patient's records. However, a prescriber may exclude categories of contact lenses where clinically indicated;

(d) Include a prescription expiration date of less than two years, unless warranted by the ocular health of the eye. If a prescription is to expire in less than two years, an explanatory notation must be made by the prescriber in the patient's record and a verbal explanation given to the patient at the time of the eye examination;

(e) Charge the patient a fee in addition to the prescriber's examination fee as a condition to releasing the prescription to the patient. However, a prescriber may charge a reasonable, additional fee for verifying ophthalmic goods dispensed by another practitioner if that fee is imposed at the time the verification is performed; or

(f) Place on the prescription, or require the patient to sign, or deliver to the patient a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination or the accuracy of the ophthalmic goods and services dispensed by another practitioner. In prohibiting the use of waivers and disclaimers of liability under this subsection, it is not the intent of the legislature to impose liability on an ophthalmologist or optometrist for the ophthalmic goods and services dispensed by another seller pursuant to the ophthalmologist's or optometrist's prescription.

(2) Nothing contained in this title shall prevent a prescriber or optician from measuring the refractive power of eyeglass lenses and duplicating the eyeglass lenses upon the request of a patient. [1994 c 106 § 3.]

18.195.040 Prescription not referring to contacts—Verification of performance—Notice—Prescription time limit—Safety notice—Noncompliance. (1) If the patient chooses to purchase contact lenses from an optician and the prescription is silent regarding contact lenses, the optician shall contact the prescriber and request a written prescription with a notation of "OK for contacts" or similar language. However, if no evaluation for contact lenses had been done during the eye examination, the prescriber may decline to approve the prescription for contact lenses without further evaluation.

(2) If a patient chooses to purchase contact lenses from an optician, the optician shall advise the patient, in writing, that a prescriber is to verify the performance of the initial set of contact lenses on the eyes within six months of the date of the eye examination or the "OK for contacts" portion of the

prescription will be void. The patient shall be requested to sign the written advisement and the signed document will be maintained as part of the patient's records. If the patient declines to sign the document, it shall be noted in the record.

(3) No practitioner may dispense contact lenses based on a prescription that is over two years old.

(4) All fitters and dispensers of contact lenses shall distribute safety pamphlets to their patients in order to improve consumer decisions as well as health-related decisions.

(5) It is unprofessional conduct under chapter 18.130 RCW for a practitioner to fail to comply with this section. [1994 c 106 § 4.]

18.195.050 Rule making—Effect. (1) The secretary shall adopt rules necessary to implement the purposes of this chapter. The secretary is specifically directed to adopt rules that maximize competition in the delivery of vision care limited only by the existing scope of practice of the professions and by provisions preventing demonstrated and substantial threats to the public's vision health.

(2) This chapter and the rules adopted by the secretary pursuant to this section shall supersede rules adopted pursuant to chapter 18.34, 18.53, 18.57, or 18.71 RCW that conflict with this chapter. To the extent that, in the secretary's opinion, these rules conflict with the purposes of this chapter, the secretary may declare such rules null and void. [1994 c 106 § 6.]

18.195.900 Short title. This chapter may be cited as the Consumer Access to Vision Care Act. [1994 c 106 § 7.]

18.195.901 Construction. Nothing in this chapter shall be construed as expanding the scope of practice of a vision care practitioner beyond that currently authorized by state law. [1994 c 106 § 5.]

Chapter 18.200 RCW

ORTHOTIC AND PROSTHETIC SERVICES

Sections

18.200.005	Intent—Purpose—1997 c 285.
18.200.010	Definitions.
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18.200.030	Use of title—Prohibited without license—Posting of license.
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18.200.070	Application—Requirements—Examination—Alternative standards.
18.200.080	Licensure without examination.
18.200.090	Reciprocity.
18.200.100	Application of uniform disciplinary act.
18.200.900	Short title.
18.200.902	Effective date—1997 c 285 §§ 1-5 and 8-12.

18.200.005 Intent—Purpose—1997 c 285. It is the intent of the legislature that this act accomplish the following: Safeguard public health, safety, and welfare; protect the public from being misled by unethical, ill-prepared, unscrupulous, and unauthorized persons; assure the highest degree of professional conduct on the part of orthotists and prosthetists; and assure the availability of orthotic and prosthetic services of high quality to persons in need of the services. The purpose of this act is to provide for the regulation of persons

offering orthotic and prosthetic services to the public. [1997 c 285 § 1.]

18.200.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the orthotics and prosthetics advisory committee.

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

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

(4) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing, as well as providing the initial training necessary to accomplish the fitting of, an orthosis for the support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. The practice of orthotics encompasses evaluation, treatment, and consultation. With basic observational gait and postural analysis, orthotists assess and design orthoses to maximize function and provide not only the support but the alignment necessary to either prevent or correct deformity or to improve the safety and efficiency of mobility or locomotion, or both. Orthotic practice includes providing continuing patient care in order to assess its effect on the patient's tissues and to assure proper fit and function of the orthotic device by periodic evaluation.

(5) "Orthotist" means a person licensed to practice orthotics under this chapter.

(6) "Orthosis" means a custom-fabricated, definitive brace or support that is designed for long-term use. Except for the treatment of scoliosis, orthosis does not include prefabricated or direct-formed orthotic devices, as defined in this section, or any of the following assistive technology devices: Commercially available knee orthoses used following injury or surgery; spastic muscle tone-inhibiting orthoses; upper extremity adaptive equipment; finger splints; hand splints; custom-made, leather wrist gauntlets; face masks used following burns; wheelchair seating that is an integral part of the wheelchair and not worn by the patient independent of the wheelchair; fabric or elastic supports; corsets; arch supports, also known as foot orthotics; low-temperature formed plastic splints; trusses; elastic hose; canes; crutches; cervical collars; dental appliances; and other similar devices as determined by the secretary, such as those commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply facility. Prefabricated orthoses, also known as custom-fitted, or off-the-shelf, are devices that are manufactured as commercially available stock items for no specific patient. Direct-formed orthoses are devices formed or shaped during the molding process directly on the patient's body or body segment. Custom-fabricated orthoses, also known as custom-made orthoses, are devices designed and fabricated, in turn, from raw materials for a specific patient and require the generation of an image, form, or mold that replicates the patient's body or body segment and, in turn, involves the rectification of dimensions, contours, and volumes to achieve proper fit, comfort, and function for that specific patient.

(7) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, aligning, adjusting, or servicing, as well as providing the ini-

tial training necessary to accomplish the fitting of, a prosthesis through the replacement of external parts of a human body lost due to amputation or congenital deformities or absences. The practice of prosthetics also includes the generation of an image, form, or mold that replicates the patient's body or body segment and that requires rectification of dimensions, contours, and volumes for use in the design and fabrication of a socket to accept a residual anatomic limb to, in turn, create an artificial appendage that is designed either to support body weight or to improve or restore function or cosmesis, or both. Involved in the practice of prosthetics is observational gait analysis and clinical assessment of the requirements necessary to refine and mechanically fix the relative position of various parts of the prosthesis to maximize the function, stability, and safety of the patient. The practice of prosthetics includes providing continuing patient care in order to assess the prosthetic device's effect on the patient's tissues and to assure proper fit and function of the prosthetic device by periodic evaluation.

(8) "Prosthetist" means a person who is licensed to practice prosthetics under this chapter.

(9) "Prosthesis" means a definitive artificial limb that is alignable or articulated, or, in lower extremity applications, capable of weight bearing. Prosthesis means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or other external human body part including an artificial limb, hand, or foot. The term does not include artificial eyes, ears, fingers or toes, dental appliances, ostomy products, devices such as artificial breasts, eyelashes, wigs, or other devices as determined by the secretary that do not have a significant impact on the musculoskeletal functions of the body. In the lower extremity of the body, the term prosthesis does not include prostheses required for amputations distal to and including the transmetatarsal level. In the upper extremity of the body, the term prosthesis does not include prostheses that are provided to restore function for amputations distal to and including the carpal level.

(10) "Authorized health care practitioner" means licensed physicians, physician's assistants, osteopathic physicians, chiropractors, naturopaths, podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners. [1997 c 285 § 2.]

18.200.020 Treatment limits. An orthotist or prosthetist may only provide treatment utilizing new orthoses or prostheses for which the orthotist or prosthetist is licensed to do so, and only under an order from or referral by an authorized health care practitioner. A consultation and periodic review by an authorized health care practitioner is not required for evaluation, repair, adjusting, or servicing of orthoses by a licensed orthotist and servicing of prostheses by a licensed prosthetist. Nor is an authorized health care practitioner's order required for maintenance of an orthosis or prosthesis to the level of its original prescription for an indefinite period of time if the order remains appropriate for the patient's medical needs.

Orthotists and prosthetists must refer persons under their care to authorized health care practitioners if they have reasonable cause to believe symptoms or conditions are present that require services beyond the scope of their practice or for

which the prescribed orthotic or prosthetic treatment is contraindicated. [1997 c 285 § 3.]

18.200.030 Use of title—Prohibited without license—Posting of license. No person may represent himself or herself as a licensed orthotist or prosthetist, use a title or description of services, or engage in the practice of orthotics or prosthetics without applying for licensure, meeting the required qualifications, and being licensed by the department of health, unless otherwise exempted by this chapter.

A person not licensed with the secretary must not represent himself or herself as being so licensed and may not use in connection with his or her name the words or letters "L.O.," "L.P.," or "L.P.O.," or other letters, words, signs, numbers, or insignia indicating or implying that he or she is either a licensed orthotist or a licensed prosthetist, or both. No person may practice orthotics or prosthetics without first having a valid license. The license must be posted in a conspicuous location at the person's work site. [1997 c 285 § 4.]

18.200.040 Practices not limited by chapter. Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by individuals listed under RCW 18.130.040 and performing services within their authorized scopes 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 orthotic or prosthetic educational program approved by the secretary, 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, if the person is designated by a title that clearly indicates the person's status as a student or trainee;

(4) A person fulfilling the supervised residency or internship experience requirements described in RCW 18.200.070, if the activities and services constitute a part of the experience necessary to meet the requirements of this chapter; or

(5) A person from performing orthotic or prosthetic services in this state if: (a) The services are performed for no more than ninety working days; and (b) the person is licensed in another state or has met commonly accepted standards for the practice of orthotics or prosthetics as determined by the secretary. [1997 c 285 § 5.]

18.200.050 Secretary's authority. In addition to other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter;

(2) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.250 and 43.70.280. All fees collected under this section must be credited to the health professions account as required under RCW 43.70.320;

(3) Register applicants, issue licenses to applicants who have met the education, training, and examination requirements for licensure, and deny licenses to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of credentials based upon unpro-

fessional conduct or impairment are governed by the uniform disciplinary act, chapter 18.130 RCW;

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

(5) 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 licensure;

(6) Establish the standards and procedures for revocation of approval of education programs;

(7) Utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations;

(8) Prepare and administer, or approve the preparation and administration of, examinations for applicants for licensure;

(9) 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;

(10) Determine which jurisdictions have licensing requirements equivalent to those of this state and issue licenses without examinations to individuals licensed in those jurisdictions;

(11) Define and approve any experience requirement for licensing;

(12) Implement and administer a program for consumer education;

(13) Adopt rules implementing continuing competency requirements for renewal of the license and relicensing;

(14) Maintain the official department records of all applicants and licensees;

(15) Establish by rule the procedures for an appeal of an examination failure;

(16) Establish requirements and procedures for an inactive license; and

(17) With the advice of the advisory committee, the secretary may recommend collaboration with health professions, boards, and commissions to develop appropriate referral protocols. [1997 c 285 § 6.]

18.200.060 Advisory committee—Composition—Terms—Duties. (1) The secretary has the authority to appoint an advisory committee to further the purposes of this chapter. The secretary may consider the persons who are recommended for appointment by the orthotic and prosthetic associations of the state. The committee is 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 are for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. Members of the advisory committee must be residents of this state and citizens of the United States. The committee is composed of three individuals licensed in the category designated and engaged in rendering services to the public. Two members must at all times be holders of licenses for the practice of either prosthetics or orthotics, or both, in this state, except for the initial members

of the advisory committee, all of whom must fulfill the requirements for licensure under this chapter. One member must be a practicing orthotist. One member must be a practicing prosthetist. One member must be licensed by the state as a physician licensed under chapter 18.57 or 18.71 RCW, specializing in orthopedic medicine or surgery or physiatry. Two members must represent the public at large and be unaffiliated directly or indirectly with the profession being credentialed but, to the extent possible, be consumers of orthotic and prosthetic services. The two members appointed to the advisory committee representing the public at large must have an interest in the rights of consumers of health services and must not be or have been a licensee of a health occupation committee or an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility.

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

(3) The advisory committee may provide advice on matters specifically identified and requested by the secretary, such as applications for licenses.

(4) The advisory committee may be requested by the secretary to approve an examination required for licensure under this chapter.

(5) The advisory committee may be requested by the secretary to review and monitor the exemptions to requirements of certain orthoses and prostheses in this chapter and recommend to the secretary any statutory changes that may be needed to properly protect the public.

(6) The advisory committee, at the request of the secretary, may recommend rules in accordance with the administrative procedure act, chapter 34.05 RCW, relating to standards for appropriateness of orthotic and prosthetic care.

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

(8) 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.

(9) The secretary, 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. [1997 c 285 § 7.]

18.200.070 Application—Requirements—Examination—Alternative standards. (1) An applicant must file a written application on forms provided by the department showing to the satisfaction of the secretary, in consultation with the advisory committee, that the applicant meets the following requirements:

(a) The applicant possesses a baccalaureate degree with coursework appropriate for the profession approved by the secretary, or possesses equivalent training as determined by

the secretary pursuant to subsections (3) and (5) of this section;

(b) The applicant has the amount of formal training, including the hours of classroom education and clinical practice, in areas of study as the secretary deems necessary and appropriate;

(c) The applicant has completed a clinical internship or residency in the professional area for which a license is sought in accordance with the standards, guidelines, or procedures for clinical internships or residencies inside or outside the state as established by the secretary, or that are otherwise substantially equivalent to the standards commonly accepted in the fields of orthotics and prosthetics as determined by the secretary pursuant to subsections (3) and (5) of this section. The secretary must set the internship as at least one year.

(2) An applicant for licensure as either an orthotist or prosthetist must pass all written and practical examinations that are required and approved by the secretary in consultation with the advisory committee.

(3) The standards and requirements for licensure established by the secretary must be substantially equal to the standards commonly accepted in the fields of orthotics and prosthetics.

(4) An 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 secretary under RCW 43.70.250, for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require remedial education before the person may take future examinations.

(5) The secretary may waive some of the education, examination, or experience requirements of this section if the secretary determines that the applicant meets alternative standards, established by the secretary through rule, that are substantially equivalent to the requirements in subsections (1) and (2) of this section. [1997 c 285 § 8.]

18.200.080 Licensure without examination. The secretary may grant a license without an examination for those applicants who have practiced full time for five of the six years prior to *the effective date of this act and who have provided comprehensive orthotic or prosthetic, or orthotic and prosthetic, services in an established practice. This section applies only to those individuals who apply within one year of *the effective date of this act. [1997 c 285 § 9.]

*Reviser's note: 1997 c 285 has two different effective dates. The effective date for sections 1 through 5 and 8 through 12 is December 1, 1998, and the effective date for the remainder of the act is July 27, 1997.

18.200.090 Reciprocity. An applicant holding a license in another state or a territory of the United States may be licensed to practice in this state without examination if the secretary determines that the other jurisdiction's credentialing standards are substantially equivalent to the standards in this jurisdiction. [1997 c 285 § 10.]

18.200.100 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses, unauthorized practice, and the discipline of persons licensed under this chapter. The

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secretary is the disciplining authority under this chapter. [1997 c 285 § 11.]

18.200.900 Short title. This chapter is known and may be cited as the orthotics and prosthetics practice act. [1997 c 285 § 12.]

18.200.902 Effective date—1997 c 285 §§ 1-5 and 8-12. Sections 1 through 5 and 8 through 12 of this act take effect December 1, 1998. [1997 c 285 § 16.]

Chapter 18.205 RCW

CHEMICAL DEPENDENCY PROFESSIONALS

Sections

18.205.010	Chemical dependency professional certification.
18.205.020	Definitions.
18.205.030	Title or description of services.
18.205.040	Use of title.
18.205.050	Practice not prohibited or restricted by chapter.
18.205.060	Authority of secretary.
18.205.070	Official record of proceedings.
18.205.080	Chemical dependency certification advisory committee—Composition—Terms.
18.205.090	Certification requirements.
18.205.095	Certification requirements—Trainees.
18.205.100	Educational programs and alternative training—Standards and procedures—Established by rule.
18.205.110	Examination.
18.205.120	Application for certification—Fee.
18.205.130	Waiver of examination—Certification of applicants—Intent.
18.205.140	Applicant credentialed in another state—Certification without examination.
18.205.150	Uniform disciplinary act.
18.205.900	Effective dates—1998 c 243.

18.205.010 Chemical dependency professional certification. The legislature recognizes chemical dependency professionals as discrete health professionals. Chemical dependency professional certification serves the public interest. [1998 c 243 § 1.]

18.205.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certification" means a voluntary process recognizing an individual who qualifies by examination and meets established educational prerequisites, and which protects the title of practice.

(2) "Certified chemical dependency professional" means an individual certified in chemical dependency counseling, under this chapter.

(3) "Certified chemical dependency professional trainee" means an individual working toward the education and experience requirements for certification as a chemical dependency professional.

(4) "Chemical dependency counseling" means employing the core competencies of chemical dependency counseling to assist or attempt to assist an alcohol or drug addicted person to develop and maintain abstinence from alcohol and other mood-altering drugs.

(5) "Committee" means the chemical dependency certification advisory committee established under this chapter.

(6) "Core competencies of chemical dependency counseling" means competency in the nationally recognized knowledge, skills, and attitudes of professional practice,

including assessment and diagnosis of chemical dependency, chemical dependency treatment planning and referral, patient and family education in the disease of chemical dependency, individual and group counseling with alcoholic and drug addicted individuals, relapse prevention counseling, and case management, all oriented to assist alcoholic and drug addicted patients to achieve and maintain abstinence from mood-altering substances and develop independent support systems.

(7) "Department" means the department of health.

(8) "Health profession" means a profession providing health services regulated under the laws of this state.

(9) "Secretary" means the secretary of health or the secretary's designee. [2008 c 135 § 15; 1998 c 243 § 2.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.205.030 Title or description of services. No person may represent oneself as a certified chemical dependency professional or certified chemical dependency professional trainee or use any title or description of services of a certified chemical dependency professional or certified chemical dependency professional trainee without applying for certification, meeting the required qualifications, and being certified by the department of health, unless otherwise exempted by this chapter. [2008 c 135 § 16; 2000 c 171 § 41; 1998 c 243 § 3.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.205.040 Use of title. (1) Except as provided in subsection (2) of this section, nothing in this chapter shall be construed to authorize the use of the title "certified chemical dependency professional" or "certified chemical dependency professional trainee" when treating patients in settings other than programs approved under *chapter 70.96A RCW.

(2) A person who holds a credential as a "certified chemical dependency professional" or a "certified chemical dependency professional trainee" may use such title when treating patients in settings other than programs approved under *chapter 70.96A RCW if the person also holds a license as: An advanced registered nurse practitioner under chapter 18.79 RCW; a marriage and family therapist, mental health counselor, advanced social worker, or independent clinical social health worker under chapter 18.225 RCW; a psychologist under chapter 18.83 RCW; an osteopathic physician under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW; a physician under chapter 18.71 RCW; or a physician assistant under chapter 18.71A RCW. [2014 c 225 § 108; 2008 c 135 § 17; 1998 c 243 § 4.]

***Reviser's note:** Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 1st sp.s. c 29 §§ 301, effective April 1, 2018, 601, and 701.

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.205.050 Practice not prohibited or restricted by chapter. 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 secretary, 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. [1998 c 243 § 5.]

18.205.060 Authority of secretary. In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter, in consultation with the committee;

(2) Establish all certification, examination, and renewal fees in accordance with RCW 43.70.250;

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

(4) Issue certificates to applicants who have met the education, training, and examination requirements for certification and to deny certification to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of certification 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 certified under this chapter to serve as examiners for any practical examinations;

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

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

(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 certificates to individuals credentialed in those states without examinations;

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

(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 certificated individuals;

(14) Establish by rule the procedures for an appeal of an examination failure; and

(15) Establish disclosure requirements. [1998 c 243 § 6.]

18.205.070 Official record of proceedings. The secretary shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for cer-

tification under this chapter and the results of each application. [1998 c 243 § 7.]

18.205.080 Chemical dependency certification advisory committee—Composition—Terms. (1) The secretary shall appoint a chemical dependency certification advisory committee to further the purposes of this chapter. The committee shall be composed of seven members, one member initially appointed for a term of one year, three for a term of two years, and three 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 the committee shall be residents of this state. The committee shall be composed of four certified chemical dependency professionals; one chemical dependency treatment program director; one physician licensed under chapter 18.71 or 18.57 RCW who is certified in addiction medicine or a licensed or certified mental health practitioner; and one member of the public who has received chemical dependency counseling.

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

(3) The committee shall meet at the times and places designated by the secretary 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 the committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committee shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of the committee.

(5) The director of the department of social and health services division of alcohol and substance abuse or the director's designee, shall serve as an ex officio member of the committee.

(6) The secretary, members of the committee, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any certification or disciplinary proceedings or other official acts performed in the course of their duties. [1998 c 243 § 8.]

18.205.090 Certification requirements. (1) The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Completion of an educational program approved by the secretary or successful completion of alternate training that meets established criteria;

(b) Successful completion of an approved examination, based on core competencies of chemical dependency counseling; and

(c) Successful completion of an experience requirement that establishes fewer hours of experience for applicants with higher levels of relevant education. In meeting any experience requirement established under this subsection, the secretary may not require more than one thousand five hundred hours of experience in chemical dependency counseling for applicants who are licensed under chapter 18.83 RCW or

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under chapter 18.79 RCW as advanced registered nurse practitioners.

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

(3) Applicants are subject to the grounds for denial of a certificate or issuance of a conditional certificate under chapter 18.130 RCW.

(4) Certified chemical dependency professionals shall not be required to be registered under chapter 18.19 RCW or licensed under chapter 18.225 RCW. [2001 c 251 § 30; 1998 c 243 § 9.]

Additional notes found at www.leg.wa.gov

18.205.095 Certification requirements—Trainees.

(1) The secretary shall issue a trainee certificate to any applicant who demonstrates to the satisfaction of the secretary that he or she is working toward the education and experience requirements in RCW 18.205.090.

(2) A trainee certified under this section shall submit to the secretary for approval a declaration, in accordance with rules adopted by the department, that he or she is enrolled in an approved education program and actively pursuing the experience requirements in RCW 18.205.090. This declaration must be updated with the trainee's annual renewal.

(3) A trainee certified under this section may practice only under the supervision of a certified chemical dependency professional. The first fifty hours of any face-to-face client contact must be under direct observation. All remaining experience must be under supervision in accordance with rules adopted by the department.

(4) A certified chemical dependency professional trainee provides chemical dependency assessments, counseling, and case management with a state regulated agency and can provide clinical services to patients consistent with his or her education, training, and experience as approved by his or her supervisor.

(5) A trainee certification may only be renewed four times.

(6) Applicants are subject to denial of a certificate or issuance of a conditional certificate for the reasons set forth in chapter 18.130 RCW. [2008 c 135 § 18.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.205.100 Educational programs and alternative training—Standards and procedures—Established by rule.

The secretary may establish by rule the standards and procedures for approval of educational programs and alternative training. The secretary may utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The secretary shall establish by rule the standards and procedures for revocation of approval of educational programs. The standards and procedures set shall apply equally to educational programs and training in the United States and in foreign jurisdictions. The secretary may establish a fee for educational program evaluations. [2000 c 171 § 42; 1998 c 243 § 10.]

18.205.110 Examination. (1) The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the other

requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary'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 secretary 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 secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The secretary 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 certification requirements. [1998 c 243 § 11.]

18.205.120 Application for certification—Fee. Applications for certification shall be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application. [1998 c 243 § 12.]

18.205.130 Waiver of examination—Certification of applicants—Intent. (1) Within two years after July 1, 1999, the secretary shall waive the examination and certify a person who pays a fee and produces a valid chemical dependency counselor certificate of qualification from the department of social and health services.

(2) Within two years after July 1, 1999, the secretary shall waive the examination and certify applicants who are licensed under chapter 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse practitioners who pay a fee, who document completion of courses substantially equivalent to those required of chemical dependency counselors working in programs approved under *chapter 70.96A RCW on July 1, 1999, and who provide evidence of one thousand five hundred hours of experience in chemical dependency counseling.

(3) It is the intent of the legislature that the credentialing of chemical dependency professionals be established solely by the department. [1998 c 243 § 13.]

***Reviser's note:** Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 1st sp.s. c 29 §§ 301, effective April 1, 2018, 601, and 701.

18.205.140 Applicant credentialed in another state—Certification without examination. An applicant holding a credential in another state may be certified to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state. [1998 c 243 § 14.]

18.205.150 Uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of certificates, unauthorized practice, and the discipline of persons certified under this chapter. The secretary shall be the disciplining authority under this chapter. [1998 c 243 § 15.]

18.205.900 Effective dates—1998 c 243. This act takes effect July 1, 1998, except for sections 3, 9, 13, and 14 of this act, which take effect July 1, 1999. [1998 c 243 § 18.]

Chapter 18.210 RCW

ON-SITE WASTEWATER TREATMENT SYSTEMS—DESIGNER LICENSING

Sections

18.210.005	Findings—Purpose—Prohibition.
18.210.010	Definitions.
18.210.020	Unprofessional conduct.
18.210.030	Support order—License suspension.
18.210.050	Director's authority.
18.210.060	Board—Authority—Duties.
18.210.080	Immunity.
18.210.100	Written examination—Minimum requirements.
18.210.110	Experience from outside state.
18.210.120	Application for licensure—References—Fees.
18.210.130	Issuance of license.
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18.210.150	Persons exempt from licensure.
18.210.160	Prohibited practices—Penalty.
18.210.170	Professional development.
18.210.180	Foreign jurisdiction—License without examination.
18.210.190	Local health jurisdictions—Certificate of competency—Fee.
18.210.200	Account—Budget request.
18.210.220	Uniform regulation of business and professions act.
18.210.230	Military training or experience.

18.210.005 Findings—Purpose—Prohibition. (1) In order to safeguard life, health, and property and to promote the public welfare, the legislature finds that it is in the public interest to permit the limited practice of engineering by qualified individuals who are not registered as professional engineers under chapter 18.43 RCW. The increased complexity of on-site wastewater treatment systems, changes in treatment technology, and the need to protect groundwater and watershed areas make it essential that qualified professionals design the systems. Furthermore, the legislature finds that individuals who have been authorized by local health jurisdictions to design on-site wastewater treatment systems have performed these designs in the past. However, it is desirable to establish a statewide licensing program to create uniform application of design practices, standards for designs, individual qualifications, and consistent enforcement efforts applicable to all persons who design on-site wastewater treatment systems, including persons licensed to practice as professional engineers under chapter 18.43 RCW. It is further desirable to establish a certification program applicable to all persons who inspect or approve on-site wastewater treatment systems on behalf of a local health jurisdiction.

(2) It is unlawful for any individual to practice or offer to practice the design of on-site wastewater treatment systems unless licensed in accordance with this chapter or licensed as a professional engineer under chapter 18.43 RCW. [1999 c 263 § 1.]

18.210.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the board of registration for professional engineers and land surveyors as defined in chapter 18.43 RCW.

(2) "Certificate of competency" or "certificate" means a certificate issued to employees of local health jurisdictions indicating that the certificate holder has passed the licensing examination required under this chapter.

(3) "Designer" or "licensee" means an individual authorized under this chapter to perform design services for on-site wastewater treatment systems.

(4) "Director" means the director of the Washington state department of licensing.

(5) "Engineer" means a professional engineer licensed under chapter 18.43 RCW.

(6) "License" means a license to design on-site wastewater treatment systems under this chapter.

(7) "Local health jurisdiction" or "jurisdictional health department" means an administrative agency created under chapter 70.05, 70.08, or 70.46 RCW, that administers the regulation and codes regarding on-site wastewater treatment systems.

(8) "On-site wastewater design" means the development of plans, details, specifications, instructions, or inspections by application of specialized knowledge in analysis of soils, on-site wastewater treatment systems, disposal methods, and technologies to create an integrated system of collection, transport, distribution, treatment, and disposal of on-site wastewater.

(9) "On-site wastewater treatment system" means an integrated system of components that: convey, store, treat, and/or provide subsurface soil treatment and disposal of wastewater effluent on the property where it originates or on adjacent or other property and includes piping, treatment devices, other accessories, and soil underlying the disposal component of the initial and reserve areas, for on-site wastewater treatment under three thousand five hundred gallons per day when not connected to a public sewer system.

(10) "Practice of engineering" has the meaning set forth in RCW 18.43.020(5). [2011 c 256 § 1. Prior: 2010 1st sp.s. c 7 § 76; 1999 c 263 § 2.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

18.210.020 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the following conduct, acts, and conditions constitute unprofessional conduct:

(1) Practicing with a *practice permit or license issued under this chapter that is expired, suspended, or revoked;

(2) Being willfully untruthful or deceptive in any document, report, statement, testimony, or plan that pertains to the

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design or construction of an on-site wastewater treatment system;

(3) Submission of a design or as-built record to a local health jurisdiction, to the department of health, or to the department of ecology, that is knowingly based upon false, incorrect, misleading, or fabricated information; and

(4) Submission of any application for licensure or certification that contains false, fraudulent, or misleading information. [2011 c 256 § 2; 2002 c 86 § 256; 1999 c 263 § 3.]

***Reviser's note:** The definition of "practice permit" was deleted pursuant to 2011 c 256 § 1.

Additional notes found at www.leg.wa.gov

18.210.030 Support order—License suspension. The board shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for a license under this chapter during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the child support order. The procedure in RCW 74.20A.320 is the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order, and suspension of a license under this section, and satisfies the requirements of RCW 34.05.422. [2011 c 256 § 3; 2002 c 86 § 257; 1999 c 263 § 4.]

Additional notes found at www.leg.wa.gov

18.210.050 Director's authority. The director may:

- (1) Employ administrative, clerical, and investigative staff as necessary to administer and enforce this chapter;
- (2) Establish fees for applications, examinations, and renewals in accordance with chapter 43.24 RCW;
- (3) Issue licenses to applicants who meet the requirements of this chapter; and
- (4) Exercise rule-making authority to implement this section. [2011 c 256 § 4; 2010 1st sp.s. c 7 § 77; 1999 c 263 § 6.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

18.210.060 Board—Authority—Duties. The board may:

(1) Adopt rules to implement this chapter including, but not limited to, evaluation of experience, examinations, and scope and standards of practice;

(2) Administer licensing examinations; and

(3) Review and approve or deny initial and renewal license applications. [2010 1st sp.s. c 7 § 78; 2002 c 86 § 258; 1999 c 263 § 7.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Additional notes found at www.leg.wa.gov

18.210.080 Immunity. The director, members of the board, and individuals acting on behalf of the director or the board are immune to liability in any civil action or criminal case based on any acts performed in the course of their duties

under this chapter, except for acts displaying intentional or willful misconduct. [2011 c 256 § 5; 1999 c 263 § 9.]

18.210.100 Written examination—Minimum requirements. All applicants for licensure under this chapter, except as provided in RCW 18.210.180, must pass a written examination administered by the board and must also meet the following minimum requirements:

- (1) A high school diploma or equivalent; and
- (2) A minimum of four years of experience, as approved by the board, showing increased responsibility for the design of on-site wastewater treatment systems. The experience should include site soil assessment, hydraulics, topographic delineations, use of specialized treatment processes and devices, microbiology, and construction practices. Completion of satisfactory college level coursework or successful participation in a board-approved internship or mentoring program may be substituted for up to two years of the experience requirement. [2011 c 256 § 6; 1999 c 263 § 11.]

18.210.110 Experience from outside state. Experience in on-site design, inspection, and/or construction activities acquired outside the state of Washington may satisfy the experience requirements under this chapter. The board shall consider the experience according to the level of complexity of the design work and evidence that the experience shows increased responsibility over designs. The experience may be considered only to the extent that it can be independently verified by the board. [1999 c 263 § 12.]

18.210.120 Application for licensure—References—Fees. (1) Application for licensure must be on forms prescribed by the board and furnished by the director. The application must contain statements, made under oath, demonstrating the applicant's education and work experience.

(2) Applicants shall provide not less than two verifications of experience. Verifications of experience may be provided by licensed professional engineers, licensed on-site wastewater treatment system designers, or state/local regulatory officials in the on-site wastewater treatment field who have direct knowledge of the applicant's qualifications to practice in accordance with this chapter and who can verify the applicant's work experience.

(3) The director, as provided in RCW 43.24.086, shall determine an application fee for licensure as an on-site wastewater treatment system designer. A nonrefundable application fee must accompany the application. The director shall ensure that the application fee includes the cost of the examination and the cost issuance of a license and certificate. A candidate who fails an examination may apply for reexamination. The director shall determine the fee for reexamination. [2011 c 256 § 7; 1999 c 263 § 13.]

18.210.130 Issuance of license. (1) The director shall issue a license to any applicant who meets the requirements of this chapter. The issuance of a license by the director is evidence that the person named is entitled to the rights and privileges of a licensed on-site wastewater treatment system designer as long as the license remains valid.

(2) Each person licensed under this chapter shall obtain an inking stamp, of a design authorized by the board, that

contains the licensee's name and license number. Plans, specifications, and reports prepared by the registrant must be signed, dated, and stamped. Signature and stamping constitute certification by the licensee that a plan, specification, or report was prepared by or under the direct supervision of a licensee.

(3) Those persons who obtain a certificate of competency as provided in chapter 70.118 RCW do not have the privileges granted to a license holder under this chapter and do not have authority to obtain and use a stamp as described in this section. [1999 c 263 § 14.]

18.210.140 Renewal—Renewal fee—Penalty fee. (1) Licenses and certificates issued under this chapter are valid for a period of time as determined by the director and may be renewed under the conditions described in this chapter. An expired license or certificate is invalid and must be renewed. Any licensee or certificate holder who fails to pay the renewal fee within ninety days following the date of expiration shall be assessed a penalty fee as determined by the director and must pay the penalty fee and the base renewal fee before the license or certificate may be renewed.

(2) Any license issued under this chapter that is not renewed within two years of its date of expiration must be canceled. Following cancellation, a person seeking to renew must reapply as a new applicant under this chapter.

(3) The director, as provided in RCW 43.24.086, shall determine the fee for applications and for renewals of licenses and certificates issued under this chapter. For determining renewal fees, the pool of licensees and certificate holders under this chapter must be combined with the licensees established in chapter 18.43 RCW. [2011 c 256 § 8; 1999 c 263 § 15.]

18.210.150 Persons exempt from licensure. A person engaged in any of the following activities is not required to be licensed in accordance with this chapter:

(1) A licensed professional engineer, as provided in chapter 18.43 RCW, if the professional engineer performs the design work in accordance with this chapter and rules adopted under this chapter; or

(2) An employee or a subordinate of a person licensed under chapter 18.43 RCW as a professional engineer, or a person licensed under this chapter if the work is performed under the direct supervision of the engineer or licensee and does not include final design decisions. [1999 c 263 § 16.]

18.210.160 Prohibited practices—Penalty. On or after July 1, 2003, it is a gross misdemeanor for any person, not otherwise exempt from the requirements of this chapter, to: (1) Perform on-site wastewater treatment systems design services without a license; (2) purport to be qualified to perform those services without having been issued a license under this chapter; (3) attempt to use the license or seal of another; (4) attempt to use a revoked or suspended license; or (5) attempt to use false or fraudulent credentials. In addition, action may be taken under RCW 18.235.150. [2011 c 256 § 9; 2002 c 86 § 259; 1999 c 263 § 17.]

Additional notes found at www.leg.wa.gov

18.210.170 Professional development. The board shall require licensees under this chapter to maintain continuing professional development. The board may require these licensees to demonstrate maintenance of knowledge and skills as a condition of license renewal, including peer review of work products and periodic reexamination. [2011 c 256 § 10; 1999 c 263 § 18.]

18.210.180 Foreign jurisdiction—License without examination. Any person holding a license issued by a jurisdiction outside the state of Washington authorizing that person to perform design services for site soil assessment, hydraulics, topographic delineations, use of specialized treatment processes and devices, microbiology, and construction practices of on-site wastewater treatment systems may be granted a license without examination under this chapter, if:

(1) The education, experience, and/or examination forming the basis of the license is determined by the board to be equal to or greater than the conditions for the issuance of a license under this chapter; and

(2) The individual has paid the applicable fee and has submitted the necessary application form. [2011 c 256 § 11; 1999 c 263 § 19.]

18.210.190 Local health jurisdictions—Certificate of competency—Fee. (1) Employees of local health jurisdictions who review, inspect, or approve the design and construction of on-site wastewater treatment systems shall obtain a certificate of competency by obtaining a passing score on the written examination administered for licensure under this chapter. Eligibility to apply for the certificate of competency is based upon a written request from the local health director or designee and payment of a fee established by the director. The certificate of competency is renewable upon payment of a fee established by the director. Certificate holders are also subject to the requirements of RCW 18.210.140(1).

(2) Issuance of the certificate of competency does not authorize the certificate holder to offer or provide on-site wastewater treatment system design services. However, nothing in this chapter limits or affects the ability of local health jurisdictions to perform on-site design services under their authority in chapter 70.05 RCW.

(3) Local health jurisdictions and the state department of health retain authority to:

(a) Administer state and local regulations and codes for approval or disapproval of designs for on-site wastewater treatment systems;

(b) Issue permits for construction;

(c) Evaluate soils and site conditions for compliance with code requirements; and

(d) Perform on-site wastewater treatment design work as authorized in state and local board of health rules. [2011 c 256 § 12; 1999 c 263 § 20.]

18.210.200 Account—Budget request. (1) All fees and fines collected under this chapter shall be paid into the professional engineers' account established under RCW 18.43.150. Moneys in the account may be spent only after appropriation and must be used to carry out all the purposes and provisions of this chapter and chapter 18.43 RCW, including the cost of administering this chapter.

(2) The director shall biennially prepare a budget request based on the anticipated cost of administering licensing and certification activities. The budget request shall include the estimated income from fees contained in this chapter. [1999 c 263 § 21.]

18.210.220 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 260.]

Additional notes found at www.leg.wa.gov

18.210.230 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 13.]

Chapter 18.215 RCW SURGICAL TECHNOLOGISTS

Sections

18.215.005	Registration of surgical technologists.
18.215.010	Definitions.
18.215.020	Registration.
18.215.030	Construction—Limitation of chapter.
18.215.040	Secretary's authority.
18.215.050	Required applicant information.
18.215.060	Registration of applicant—Fee.
18.215.070	Renewal of registration—Requirements, fees established by rule.
18.215.080	Uniform disciplinary act—Application to chapter.
18.215.090	Registration requirements—Military training or experience.

18.215.005 Registration of surgical technologists. The registration of surgical technologists is in the interest of the public health, safety, and welfare. [1999 c 335 § 1.]

18.215.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health or the secretary's designee.

(3) "Surgical technologist" means a person, regardless of title, who is supervised in the surgical setting under the delegation of authority of a health care practitioner acting within the scope of his or her license and under the laws of this state. [1999 c 335 § 2.]

18.215.020 Registration. No person may represent oneself as a surgical technologist by use of any title or description without being registered by the department under the provisions of this chapter. [1999 c 335 § 3.]

18.215.030 Construction—Limitation of chapter. Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice of an individual licensed, certified, or registered under the laws of this state and performing services within his or her 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 secretary, 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. [1999 c 335 § 4.]

18.215.040 Secretary's authority. In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW as required to implement this chapter;

(2) Establish all registration and renewal fees in accordance with RCW 43.70.250;

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

(4) Register an applicant or deny registration based upon unprofessional conduct or impairment 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

(6) Maintain the official department record of all applicants and persons with registrations. [1999 c 335 § 5.]

18.215.050 Required applicant information. An applicant shall identify the name and address of the applicant and other information required by the secretary necessary to establish whether there are grounds for denial of a registration or conditional registration under chapter 18.130 RCW. [1999 c 335 § 6.]

18.215.060 Registration of applicant—Fee. The secretary shall register an applicant on forms provided by the secretary. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application. [1999 c 335 § 7.]

18.215.070 Renewal of registration—Requirements, fees established by rule. The secretary shall establish by rule the procedural requirements and fees for renewal of registration. Failure to renew shall invalidate the registration and all privileges granted by the registration. [1999 c 335 § 8.]

18.215.080 Uniform disciplinary act—Application to chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unregistered practice, the issuance and denial of registration, and the discipline of persons registered under this chapter. The secretary shall be the disciplining authority under this chapter. [1999 c 335 § 9.]

18.215.090 Registration requirements—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 13.]

Chapter 18.220 RCW GEOLOGISTS

Sections

18.220.005	Finding.
18.220.010	Definitions.
18.220.020	License required.
18.220.030	Geologist licensing board.
18.220.040	Director's authority.
18.220.050	Board's authority.
18.220.060	Requirements for licensure.
18.220.070	Application for licensure—Fee.
18.220.080	Examinations—Fee.
18.220.090	Certificate of licensing—Seal.
18.220.100	Licensure or certification without examination—Requirements.
18.220.110	License renewal—Fee—Reinstatement.
18.220.120	Geologists' account.
18.220.130	Unprofessional conduct.
18.220.160	Suspension of license/practice permit—Noncompliance with a child support order.
18.220.190	Permitted activities—Certificate of licensing not required.
18.220.200	Uniform regulation of business and professions act.
18.220.211	Military training or experience.
18.220.901	Effective date—2000 c 253.

18.220.005 Finding. The legislature finds it is in the public interest to regulate the practice of geology to safeguard life, health, and property and to promote the public welfare. [2000 c 253 § 1.]

18.220.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the geologist licensing board.

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

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

(4) "Engineering geologist" means a geologist who, by reason of his or her knowledge of engineering geology, acquired by education and practical experience, is qualified to engage in the practice of engineering geology, has met the qualifications in engineering geology established under this chapter, and has been issued a license in engineering geology by the board.

(5) "Engineering geology" means a specialty of geology affecting the planning, design, operation, and maintenance of engineering works and other human activities where geological factors and conditions impact the public welfare or the safeguarding of life, health, property, and the environment.

(6) "Geologist" means a person who, by reason of his or her knowledge of geology, mathematics, the environment, and the supporting physical and life sciences, acquired by education and practical experience, has met the qualifications established under this chapter, and has been issued a certificate of licensing as a geologist by the board.

(7) "Geology" means the science that includes: Treatment of the earth and its origin and history, in general; the investigation of the earth's constituent rocks, minerals, solids, fluids, including surface and underground waters, gases, and other materials; and the study of the natural agents, forces, and processes that cause changes in the earth.

(8) "Hydrogeology" means a science that involves the study of the waters of the earth, including the study of the occurrence, circulation, distribution, chemistry, remediation, or quality of water or its role as a natural agent that causes changes in the earth, and the investigation and collection of

data concerning waters in the atmosphere or on the surface or in the interior of the earth, including data regarding the interaction of water with other gases, solids, or fluids.

(9) "Licensed specialty geologist" means a licensed geologist who has met the qualifications in a specialty of geology established under this chapter and has been issued a license in that specialty by the board.

(10) "Practice of engineering geology" means performance of geological service or work including but not limited to consultation, investigation, evaluation, planning, geological mapping, and inspection of geological work, and the responsible supervision thereof, the performance of which is related to public welfare or the safeguarding of life, health, property, and the environment, except as otherwise specifically provided by this chapter, and includes but is not limited to the commonly recognized geological practices of construction geology, environmental geology, and urban geology.

(11) "Practice of geology" means performance of geological service or work including but not limited to collection of geological data, consultation, investigation, evaluation, interpreting, planning, geological mapping, or inspection relating to a service or work that applies to geology, and the responsible supervision thereof, the performance of which is related to public welfare or the safeguarding of life, health, property, and the environment, except as otherwise specifically provided by this chapter.

(12) "Practice of geology for others" includes, but is not limited to:

(a) The preparation of geologic reports, documents, or exhibits by any commission, board, department, district, or division of the state or any political subdivision thereof or of any county, city, or other public body, or by the employees or staff members of the commission, board, department, district, or division of the state or any political subdivision thereof or of any county, city, or other public body when the reports, documents, or exhibits are disseminated or made available to the public in such a manner that the public may reasonably be expected to rely thereon or be affected thereby; and

(b) The performance of geological services by any individual, firm, partnership, corporation, or other association or by the employees or staff members thereof, whether or not the principal business of the organization is the practice of geology, which the geological reports, documents, or exhibits constituting the practice of geology are disseminated or made available to the public or any individual or organization in such a manner that the public or individual or combination of individuals may reasonably be expected to rely thereon or be affected thereby.

However, geological reports, documents, or exhibits that are prepared by the employees or staff members of any individual, firm, partnership, corporation, or other association or commission, board, department, district, or division of the state or any political subdivision thereof or any county, city, or other public body that are for use solely within such organizations are considered in-house reports, documents, or exhibits and are not the practice of geology for others unless or until the reports are disseminated or made available as set forth in (a) or (b) of this subsection.

(13) "Practice of hydrogeology" means the performance of or offer to perform any hydrogeologic service or work in which the public welfare or the safeguarding of life, health,

environment, or property is concerned or involved. This includes the collection of geological data, and consultation, investigation, evaluation, interpretation, planning, or inspection relating to a service or work that applies hydrogeology.

(14) "Responsible charge" means the exercise of fully independent control and direction of geological work or the supervision of such work, and being fully responsible, answerable, accountable, or liable for the results.

(15) "Specialty" means a branch of geology that has been recognized under this chapter for the purposes of licensure. Engineering geology is considered to be a specialty of geology.

(16) "Subordinate" means any person who assists in the practice of geology by a licensed geologist or an exempt person, without assuming the responsible charge of the work. [2000 c 253 § 3.]

18.220.020 License required. (1) It is unlawful for any person to practice, or offer to practice, geology for others in this state, or to use in connection with his or her name or otherwise assume or advertise any title or description tending to convey the impression that he or she is a licensed geologist, or other licensed specialty geologist title, unless the person has been licensed under the provisions of this chapter.

(2) A person shall be construed to practice or offer to practice geology, within the meaning and intent of this chapter, if the person:

(a) Practices any branch of the profession of geology;

(b) By verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself or herself to be a geologist;

(c) Through the use of some other title implies that he or she is a geologist or that he or she is licensed under this chapter; or

(d) Holds himself or herself out as able to perform or does perform any geological services or work recognized by the board as the practice of geology for others. [2000 c 253 § 2.]

18.220.030 Geologist licensing board. The state geologist licensing board is created. The board consists of seven members, six of whom shall be appointed by the director, who shall advise the director concerning the administration of this chapter. Of the initial appointments to the board, five shall be actively engaged in the practice of geology for at least ten years, five of which shall have been immediately prior to their appointment to the board. Subsequent to the initial appointments, five members of the board must be geologists licensed under this chapter, two of whom shall be licensed in a specialty of geology recognized under this chapter. Insofar as possible, the composition of the appointed geologists serving on the board shall be generally representative of the occupational distribution of geologists licensed under this chapter. One member of the board must be a member of the general public with no family or business connection with the practice of geology. The supervisor of geology of the department of natural resources is an ex officio member of the board. Members of the board shall be appointed for terms of four years. Terms shall be staggered so that not more than two appointments are scheduled to be made in any calendar year. Members shall hold office until the expiration of

the terms for which they were appointed and until their successors have been appointed and have qualified. A board member may be removed for just cause. The director may appoint a new member to fill a vacancy on the board for the remainder of the unexpired term.

Each board member shall be entitled to compensation for each day spent conducting official business and to reimbursement for travel expenses in accordance with RCW 43.03.240, 43.03.050, and 43.03.060. [2000 c 253 § 4.]

18.220.040 Director's authority. The director has the following authority in administering this chapter:

- (1) To adopt fees as provided in RCW 43.24.086; and
- (2) To administer licensing examinations approved by the board. [2007 c 256 § 5; 2002 c 86 § 261; 2000 c 253 § 5.]

Reviser's note: Chapter 1, Laws of 2000 (Initiative Measure No. 695) was declared unconstitutional in its entirety by *Amalgamated Transit Union Local 587 et al v. The State of Washington*, 142 Wash.2d 183 (2000). Therefore 2000 c 253 § 5 was not referred to the electorate.

Additional notes found at www.leg.wa.gov

18.220.050 Board's authority. The board has the following authority in administering this chapter:

- (1) To adopt, amend, and rescind rules as deemed necessary to carry out this chapter;
- (2) To establish the minimum qualifications for applicants for licensure as provided by this chapter;
- (3) To approve the method of administration for examinations required by this chapter or by rule. To adopt or recognize examinations prepared by other organizations. To set the time and place of examinations with the approval of the director;
- (4) To adopt standards of professional conduct and practice. Rules of professional conduct will be consistent with those outlined for engineers and land surveyors; and
- (5) To designate specialties of geology to be licensed under this chapter. [2007 c 256 § 7; 2002 c 86 § 262; 2000 c 253 § 6.]

Additional notes found at www.leg.wa.gov

18.220.060 Requirements for licensure. In order to become a licensed geologist, an applicant must meet the following requirements:

- (1) The applicant shall be of good moral and ethical character as attested to by letters of reference submitted by the applicant or as otherwise determined by the board;
- (2) The applicant shall have graduated from a course of study in geology satisfactory to the board or satisfy educational equivalents determined by the board;
- (3) The applicant shall have a documented record of a minimum of five years of experience in geology or a specialty of geology, obtained subsequent to completion of the academic requirements specified in this section, in geological work of a character satisfactory to the board, demonstrating that the applicant is qualified to assume responsible charge of such work upon licensing as a geologist. The board shall require that three years of the experience be gained under the supervision of a geologist licensed in this or any other state, or under the supervision of others who, in the opinion of the board, are qualified to have responsible charge of geological work;

(4) The applicant shall have passed an examination covering the fundamentals and practice of geology prescribed or accepted by the board;

(5) The applicant shall meet other general or individual requirements established by the board pursuant to its authority under this chapter;

(6) For licensing in any geological specialty recognized under this chapter, an applicant must first be a licensed geologist under this chapter, and then meet the following requirements:

(a) In addition to the educational requirements for licensing as a geologist defined in subsection (2) of this section, an applicant for licensing in any specialty of geology established by the board shall have successfully completed advanced study pertinent to their specialty, or equivalent seminars or on-the-job training acceptable to the board;

(b) The applicant's experience shall include a documented record of five years of experience, after completion of the academic requirements specified in this subsection, in geological work in the applicable specialty of a character satisfactory to the board, and demonstrating that the applicant is qualified to assume responsible charge of the specialty work upon licensing in that specialty of geology. The board shall require that three years of the experience be gained under the supervision of a geologist licensed in the specialty in this or any other state, or under the supervision of others who, in the opinion of the board, are qualified to have responsible charge of geological work in the specialty; and

(c) The applicant must pass an examination in the applicable specialty prescribed or accepted by the board;

(7) The following standards are applicable to experience in the practice of geology or a specialty required under subsections (3) and (6) of this section:

(a) Each year of professional practice of a character acceptable to the board, carried out under the direct supervision of a geologist who (i) is licensed in this state or is licensed in another state with licensing standards substantially similar to those under this chapter; or (ii) meets the educational and experience requirements for licensing, but who is not required to be licensed under the limitations of this chapter, qualifies as one year of professional experience in geology;

(b) Each year of professional specialty practice of a character acceptable to the board, carried out under the direct supervision of a (i) geologist who is licensed in a specialty under this chapter, or who is licensed as a specialty geologist in another state that has licensing requirements that are substantially similar to this chapter; or (ii) specialty geologist who meets the educational and experience requirements for licensing, but who is not required to be licensed under the limitations of this chapter, qualifies as one year of practice in the applicable specialty of geology; and

(c) Experience in professional practice, of a character acceptable to the board and acquired prior to one year after July 1, 2001, qualifies if the experience (i) was acquired under the direct supervision of a geologist who meets the educational and experience requirements for licensing under this chapter, or who is licensed in another state that has licensing requirements that are substantially similar to this chapter; or (ii) would constitute responsible charge of professional geological work, as determined by the board;

(8) Each year of full-time graduate study in the geological sciences or in a specialty of geology shall qualify as one year of professional experience in geology or the applicable specialty of geology, up to a maximum of two years. The board may accept geological research, teaching of geology, or a geological specialty at the college or university level as qualifying experience, provided that such research or teaching, in the judgment of the board, is comparable to experience obtained in the practice of geology or a specialty thereof;

(9) An applicant who applies for licensing before July 1, 2003, shall be considered to be qualified for licensing, without further written examination, if the applicant possesses the following qualifications:

(a)(i) A specific record of graduation with a bachelor of science or bachelor of arts or higher degree, with a major in geology granted by an approved institution of higher education acceptable to the board; or

(ii) Graduation from an approved institution of higher education in a four-year academic degree program other than geology, but with the required number of course hours as defined by the board to qualify as a geologist or engineering geologist; and

(b) Experience consisting of a minimum of five years of professional practice in geology or a specialty thereof as required under subsections (3) and (7) of this section, of a character acceptable to the board;

(10) An applicant who applies for licensing in a specialty within one year after recognition of the specialty under this chapter shall be considered qualified for licensing in that specialty, without further written examination, if the applicant:

(a) Is qualified for licensing as a geologist in this state; and

(b) Has experience consisting of a minimum five years of professional practice in the applicable specialty of geology as required under subsections (3) and (7) of this section, of a character acceptable to the board; and

(11) The geologists initially appointed to the board under RCW 18.220.030 shall be qualified for licensing under subsections (7) and (8) of this section. [2003 c 292 § 1; 2000 c 253 § 7.]

Additional notes found at www.leg.wa.gov

18.220.070 Application for licensure—Fee. An application for licensing shall be filed with the director on a form provided by the director and must contain statements made under oath demonstrating the applicant's education and practical experience. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for licensing. The application fee for initial licensing shall be determined by the director as provided in RCW 43.24.086. The application, together with the fee, must be submitted to the department prior to the application deadline established by the director. Fees for initial licensing shall include the examination and issuance of a certificate. If the director finds an applicant ineligible for licensing, the fee shall be retained as an application fee. [2000 c 253 § 8.]

18.220.080 Examinations—Fee. Examinations of applicants for licensing, when required, shall be held at such times and places as determined by the board with the direc-

tor's approval. The scope of the examination shall be directed to an applicant's ability to practice geology or any approved specialty of geology in a manner to ensure the safety of life, health, and property. A candidate failing an examination may apply for reexamination. Subsequent examinations will be granted upon payment of a fee to be determined by the director as provided in RCW 43.24.086. [2000 c 253 § 9.]

18.220.090 Certificate of licensing—Seal. The director shall issue a certificate of licensing to any applicant who has satisfactorily met all of the requirements of this chapter for licensing as a geologist or an approved specialty geologist. The certificate shall show the full name of the license holder, shall have a certificate number, and shall be signed by the director and an officer of the board. The issuance by the director of a certificate of licensing to an individual shall be prima facie evidence that the person is entitled to all the rights and privileges of a licensed geologist or specialty geologist while the certificate remains unrevoked or unexpired.

Each license holder shall obtain a seal of the design authorized by the director, bearing the licensee's name, certificate number, and the legend "licensed geologist" together with any specialty in which the individual may be authorized. Geological reports, plans, and other technical documents prepared by or under the responsible charge of the license holder shall be signed, dated, and stamped with the seal or facsimile thereof. Each signature and stamping constitutes a certification by the license holder that the document was prepared by or under his or her responsible charge and that to his or her knowledge and belief the document was prepared in accordance with the requirements of this chapter. [2000 c 253 § 10.]

18.220.100 Licensure or certification without examination—Requirements. The director may, upon application and payment of a fee determined by the director as provided in RCW 43.24.086, issue a license and certificate without further examination as a geologist or specialty geologist to any person who holds a license or certificate of qualification issued by proper authority of any state, territory, or possession of the United States, District of Columbia, or any foreign country, if the applicant's qualifications, as evaluated by the board, meet the requirements of this chapter and the rules adopted by the director. [2000 c 253 § 11.]

18.220.110 License renewal—Fee—Reinstatement. Licenses issued in conformance with this chapter shall be renewed periodically on a date to be set by the director in conformance with RCW 43.24.140. A license holder who fails to pay the prescribed fee within ninety days following the date of expiration shall pay a renewal fee equal to the current fee plus an amount equal to one year's renewal fee. Any license that has been expired for five years or more may be reinstated in conformance with rules adopted by the director. Reinstatement conditions may include demonstration of continued practice or competency in the practice of geology or an approved specialty of geology. [2000 c 253 § 12.]

18.220.120 Geologists' account. (1) All fees and fines collected under the provisions of this chapter shall be paid

into the geologists' account, created in subsection (2) of this section.

(2) The geologists' account is created in the custody of the state treasurer. All receipts from fines and fees collected under this chapter must be deposited into the account. Expenditures from the account may be used only to carry out the duties required for the operation and enforcement of this chapter. Only the director of licensing or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2000 c 253 § 13.]

18.220.130 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the following conduct, acts, and conditions constitute unprofessional conduct:

(1) Violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Not meeting the qualifications for licensing set forth by this chapter; or

(3) Committing any other act, or failing to act, which act or failure are customarily regarded as being contrary to the accepted professional conduct or standard generally expected of those practicing geology. [2007 c 256 § 6; 2002 c 86 § 263; 2000 c 253 § 14.]

Additional notes found at www.leg.wa.gov

18.220.160 Suspension of license/practice permit—Noncompliance with a child support order. The board shall immediately suspend the license or practice permit of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a child support order. If the person has continued to meet all other requirements for a license under this chapter during the suspension, reissuance of the license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the child support order. The procedure in RCW 74.20A.320 is the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order, and suspension of a license under this subsection, and satisfies the requirements of RCW 34.05.422. [2000 c 253 § 17.]

18.220.190 Permitted activities—Certificate of licensing not required. The following activities do not require a certificate of licensing under this chapter:

(1) Geological work performed by an employee or a subordinate of a geologist or specialty geologist licensed under this chapter, provided that the work does not include responsible charge of geological work as covered by this section, and is performed under the direct supervision of a geologist licensed under this chapter, who shall be and remains responsible for such work;

(2) Geological work performed by officers and employees of the United States practicing solely as such officers and employees;

(3) Geological work performed exclusively in the exploration for energy and mineral resources, insofar as such work

has no substantial impact upon the public health, safety, and welfare as determined by regulations issued by the director;

(4) Geological research conducted through academic institutions, agencies of the federal or state governments, nonprofit research institutions, or for-profit organizations, including submission of reports of research to public agencies;

(5) Teaching geology or related physical or natural sciences;

(6) The practice of engineering or other licensed professions: (a) The acquisition of engineering data involving soil, rock, groundwater, and other earth materials; evaluation of the physical and chemical properties of soil, rock, groundwater, and other earth materials; and the utilization of these data in analysis, design, and construction by professional engineers appropriately registered or licensed in this state; and (b) similar work performed by persons or organizations licensed or registered in any other profession or occupation related to geology, provided that such work is permitted under the applicable licensing or registration law, and is incidental to the practice or the profession or occupation for which licensing or registration is required. Nothing in this section shall be construed to permit the use of the title geologist or engineering geologist, or any other specialty as defined by the director, by an engineer or other licensed professional except as licensed under this chapter;

(7) General scientific work customarily performed by such physical or natural scientists as chemists, archaeologists, geographers, hydrologists, oceanographers, pedologists, and soil scientists, providing such work does not include the design and execution of geological investigations, being in responsible charge of geological or specialty geological work, or the drawing of geological conclusions and recommendations in a way that affects the public health, safety, or welfare; or

(8) The giving of testimony, or preparation and presentation of exhibits or documents for the sole purpose of being placed in evidence before any administrative or judicial tribunal or hearing, providing such testimony, exhibits, or documents do not imply that the person is registered under the provisions of this chapter. [2000 c 253 § 20.]

18.220.200 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 265.]

Additional notes found at www.leg.wa.gov

18.220.211 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the board determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 14.]

18.220.901 Effective date—2000 c 253. (1) Sections 1, 3, 7, 9, 10, 11, 12, 14, 15, 16, 17, 20, and 21 of this act take effect July 1, 2001.

(2) Sections 2, 18, and 19 of this act take effect July 1, 2002.

(3) Sections 4, 5, 6, 8, and 13 of this act take effect April 1, 2001. [2001 c 61 § 1; 2000 c 253 § 23.]

Additional notes found at www.leg.wa.gov

Chapter 18.225 RCW

MENTAL HEALTH COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, SOCIAL WORKERS

Sections

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18.225.005 Findings. The legislature finds that licensed advanced social workers and licensed independent clinical social workers represent different specializations within the social work profession, with each license signifying the highest degree of licensure as it pertains to each specialty. The legislature further finds that practitioners in each specialty exercise independent judgment and operate independently within their area of practice.

Therefore, for purposes of job classification, licensed advanced social workers and licensed independent clinical social workers licensed under this chapter shall both be considered the top tier of licensure for the profession. [2013 c 73 § 1.]

18.225.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced social work" means the application of social work theory and methods, including:

(a) Emotional and biopsychosocial assessment;

(b) Psychotherapy under the supervision of a licensed independent clinical social worker, psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or other mental health professionals as may be defined by rules adopted by the secretary;

(c) Case management;

(d) Consultation;

(e) Advocacy;

(f) Counseling; or

(g) Community organization.

(2) "Applicant" means a person who completes the required application, pays the required fee, is at least eighteen

years of age, and meets any background check requirements and uniform disciplinary act requirements.

(3) "Associate" means a prelicensure candidate who has a graduate degree in a mental health field under RCW 18.225.090 and is gaining the supervision and supervised experience necessary to become a licensed independent clinical social worker, a licensed advanced social worker, a licensed mental health counselor, or a licensed marriage and family therapist.

(4) "Committee" means the Washington state mental health counselors, marriage and family therapists, and social workers advisory committee.

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

(6) "Disciplining authority" means the department.

(7) "Independent clinical social work" means the diagnosis and treatment of emotional and mental disorders based on knowledge of human development, the causation and treatment of psychopathology, psychotherapeutic treatment practices, and social work practice as defined in advanced social work. Treatment modalities include but are not limited to diagnosis and treatment of individuals, couples, families, groups, or organizations.

(8) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of relationships, including marriage and family systems. Marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such diagnosed nervous and mental disorders. The practice of marriage and family therapy means the rendering of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

(9) "Mental health counseling" means the application of principles of human development, learning theory, psychotherapy, group dynamics, and etiology of mental illness and dysfunctional behavior to individuals, couples, families, groups, and organizations, for the purpose of treatment of mental disorders and promoting optimal mental health and functionality. Mental health counseling also includes, but is not limited to, the assessment, diagnosis, and treatment of mental and emotional disorders, as well as the application of a wellness model of mental health.

(10) "Secretary" means the secretary of health or the secretary's designee. [2013 c 73 § 2; 2008 c 135 § 11; 2001 c 251 § 1.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.225.020 Misrepresentation—Licensed by department. A person must not represent himself or herself as a licensed advanced social worker, a licensed independent clinical social worker, a licensed mental health counselor, a licensed marriage and family therapist, a licensed social work associate—advanced, a licensed social work associate— independent clinical, a licensed mental health counselor associate, or a licensed marriage and family therapist associate,

without being licensed by the department. [2008 c 135 § 12; 2001 c 251 § 2.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.225.030 Limitation of chapter. Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice of marriage and family therapy, mental health counseling, or social work by an individual otherwise regulated under this title and performing services within the authorized scope of practice;

(2) The practice of marriage and family therapy, mental health counseling, or social work by an individual employed by the government of the United States or state of Washington while engaged in the performance of duties prescribed by the laws of the United States or state of Washington;

(3) The practice of marriage and family therapy, mental health counseling, or social work by a person who is a regular student in an educational program based on recognized national standards and approved by the secretary, 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;

(4) The practice of marriage and family therapy, mental health counseling, or social work under the auspices of a religious denomination, church, or religious organization. [2001 c 251 § 3.]

18.225.040 Secretary's authority. In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter. Any rules adopted shall be in consultation with the committee;

(2) Establish all licensing, examination, and renewal fees in accordance with RCW 43.70.250;

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

(4) Issue licenses to applicants who have met the education, training, and examination requirements for licensure and to deny a license to applicants who do not meet the requirements;

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

(6) Administer and supervise the grading and taking of examinations for applicants for licensure;

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

(8) Implement and administer a program for consumer education in consultation with the committee;

(9) Adopt rules implementing a continuing education program in consultation with the committee;

(10) The office of crime victims advocacy shall supply the committee with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive

and must include information relating to minor victims. The committee shall disseminate this information to licensees by: Providing the information on the committee's web site; including the information in newsletters; holding trainings at meetings attended by organization members; or through another distribution method determined by the committee. The committee shall report to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection;

(11) Maintain the official record of all applicants and licensees; and

(12) Establish by rule the procedures for an appeal of an examination failure. [2009 c 492 § 7; 2001 c 251 § 4.]

18.225.050 Record of proceedings. The secretary shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for licensing under this chapter and the results of each application. [2001 c 251 § 5.]

18.225.060 Washington state mental health counselors, marriage and family therapists, and social workers advisory committee—Established—Composition. The Washington state mental health counselors, marriage and family therapists, and social workers advisory committee is established.

(1) The committee shall be comprised of nine members. Two members shall be licensed mental health counselors. Two members shall be licensed marriage and family therapists. One member shall be a licensed independent clinical social worker, and one member shall be a licensed advanced social worker. Three members must be consumers and represent the public at large and may not be licensed mental health care providers.

(2) Three members shall be appointed for a term of one year, three members shall be appointed for a term of two years, and three members shall be appointed for a term of three years. Subsequent members shall be appointed for terms of three years. A person must not serve as a member for more than two consecutive terms.

(3)(a) Each member must be a resident of the state of Washington.

(b) Each member must not hold an office in a professional association for mental health, social work, or marriage and family therapy and must not be employed by the state of Washington.

(c) Each professional member must have been actively engaged as a mental health counselor, marriage and family therapist, or social worker for five years immediately preceding appointment.

(d) The consumer members must represent the general public and be unaffiliated directly or indirectly with the professions licensed under this chapter.

(4) The secretary shall appoint the committee members.

(5) Committee members are immune from suit in an action, civil or criminal, based on the department's disciplinary proceedings or other official acts performed in good faith.

(6) Committee members shall be compensated in accordance with RCW 43.03.240, including travel expenses in car-

rying out his or her authorized duties in accordance with RCW 43.03.050 and 43.03.060.

(7) The committee shall elect a chair and vice chair. [2001 c 251 § 6.]

18.225.070 Department of health—Advice/assistance of advisory committee. The department of health may seek the advice and assistance of the advisory committee in administering this chapter, including, but not limited to:

(1) Advice and recommendations regarding the establishment or implementation of rules related to the administration of this chapter;

(2) Advice, recommendations, and consultation regarding case disposition guidelines and priorities related to unprofessional conduct cases regarding licensed mental health counselors, licensed clinical social workers, licensed advanced social workers, and licensed marriage and family therapists;

(3) Assistance and consultation of individual committee members as needed in the review, analysis, and disposition of reports of unprofessional conduct and consumer complaints;

(4) Assistance and recommendations to enhance consumer education; and

(5) Assistance and recommendations regarding any continuing education and continuing competency programs administered under the provisions of the [this] chapter. [2001 c 251 § 7.]

18.225.080 Uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licensure, and the discipline of persons licensed under this chapter. The secretary shall be the disciplinary authority under this chapter. [2001 c 251 § 8.]

18.225.090 Issuance of license—Requirements. (1) The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following education and experience requirements for the applicant's practice area.

(a) Licensed social work classifications:

(i) Licensed advanced social worker:

(A) Graduation from a master's or doctorate social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of three thousand two hundred hours with supervision by an approved supervisor who has been licensed for at least two years. Of those supervised hours:

(I) At least ninety hours must include direct supervision as specified in this subsection by a licensed independent clinical social worker, a licensed advanced social worker, or an equally qualified licensed mental health professional. Of those hours of directly supervised experience:

(1) At least fifty hours must include supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be super-

vised by an equally qualified licensed mental health practitioner; and

(2) At least forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision;

(II) Distance supervision is limited to forty supervision hours; and

(III) Eight hundred hours must be in direct client contact; and

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(ii) Licensed independent clinical social worker:

(A) Graduation from a master's or doctorate level social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of four thousand hours of experience, over a period of not less than three years, with supervision by an approved supervisor who has been licensed for at least two years and, as specified in this subsection, may be either a licensed independent clinical social worker who has had at least one year of experience in supervising the clinical social work of others or an equally qualified licensed mental health practitioner. Of those supervised hours:

(I) At least one thousand hours must be direct client contact;

(II) Hours of direct supervision must include:

(1) At least one hundred thirty hours by a licensed mental health practitioner;

(2) At least seventy hours of supervision with a licensed independent clinical social worker meeting the qualifications under this subsection (1)(a)(ii)(C); the other sixty hours may be supervised by an equally qualified licensed mental health practitioner; and

(3) At least sixty hours must be in one-to-one supervision and seventy hours may be in one-to-one supervision or group supervision; and

(III) Distance supervision is limited to sixty supervision hours; and

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(b) Licensed mental health counselor:

(i) Graduation from a master's or doctoral level educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards;

(ii) Successful completion of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner, in an approved setting. The three thousand hours of required experience includes a minimum of one hundred hours spent in immediate supervision with the qualified licensed mental

health counselor, and includes a minimum of one thousand two hundred hours of direct counseling with individuals, couples, families, or groups; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(c) Licensed marriage and family therapist:

(i) Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards;

(ii) Successful passage of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Of the total supervision, one hundred hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(A) A minimum of three thousand hours of experience, one thousand hours of which must be direct client contact; at least five hundred hours must be gained in diagnosing and treating couples and families; plus

(B) At least two hundred hours of qualified supervision with a supervisor. At least one hundred of the two hundred hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

Applicants who have completed a master's program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy may be credited with five hundred hours of direct client contact and one hundred hours of formal meetings with an approved supervisor; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(2) The department shall establish by rule what constitutes adequate proof of meeting the criteria. Only rules in effect on the date of submission of a completed application of an associate for her or his license shall apply. If the rules change after a completed application is submitted but before a license is issued, the new rules shall not be reason to deny the application.

(3) In addition, applicants shall be subject to the grounds for denial of a license or issuance of a conditional license under chapter 18.130 RCW. [2013 c 73 § 3; 2008 c 141 § 1; 2006 c 69 § 1; 2003 c 108 § 1; 2001 c 251 § 9.]

Retroactive application—2008 c 141: "This act is remedial and curative in nature and applies retroactively to July 22, 2003." [2008 c 141 § 2.]

18.225.100 Disclosure information. A person licensed under this chapter must provide clients at the commencement of any program of treatment with accurate disclosure information concerning the practice, in accordance with rules adopted by the department, including the right of clients to refuse treatment, the responsibility of clients to choose the provider and treatment modality which best suits their needs, and the extent of confidentiality provided by this chapter. The

disclosure information must also include the license holder's professional education and training, the therapeutic orientation of the practice, the proposed course of treatment where known, financial requirements, and such other information as required by rule. The disclosure must be acknowledged in writing by the client and license holder. [2001 c 251 § 10.]

18.225.105 Disclosure of information—Exceptions.

A person licensed under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.225.100, nor any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(1) With the written authorization of that person or, in the case of death or disability, the person's personal representative;

(2) If the person waives the privilege by bringing charges against the person licensed under this chapter;

(3) In response to a subpoena from the secretary. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;

(4) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360 (8) and (9); or

(5) To any individual if the person licensed under this chapter reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose. [2005 c 504 § 707; 2003 c 204 § 1.]

Findings—Intent—Severability—Application—Construction—Captions, part headings, subheadings not law—Adoption of rules—Effective dates—2005 c 504: See notes following RCW 71.05.027.

Licensees under chapter 18.225 RCW—Subject to chapter 70.02 RCW: RCW 70.02.180.

Additional notes found at www.leg.wa.gov

18.225.110 Examinations. (1) The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for licensure shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary'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 secretary has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) The secretary 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 licensing requirements. [2001 c 251 § 11.]

18.225.120 Application for licensing—Fee. Applications for licensing shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for licensing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee shall accompany the application. [2001 c 251 § 12.]

18.225.130 Prior certification under chapter 18.19 RCW. Any person certified under chapter 18.19 RCW who has met the applicable experience and education requirements under chapter 18.19 RCW prior to July 22, 2001, is eligible for a license as an advanced social worker, an independent clinical social worker, a marriage and family therapist, or a mental health counselor under this chapter without taking the examination. [2001 c 251 § 13.]

18.225.140 Credentialed in another state—Licensed without examination. An applicant holding a credential in another state may be licensed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the licensing standards in this state. [2001 c 251 § 14.]

18.225.145 Associate licensing—Requirements. (1) The secretary shall issue an associate license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements for the applicant's practice area and submits a declaration that the applicant is working toward full licensure in that category:

(a) Licensed social worker associate—advanced or licensed social worker associate—-independent clinical: Graduation from a master's degree or doctoral degree educational program in social work accredited by the council on social work education and approved by the secretary based upon nationally recognized standards.

(b) Licensed mental health counselor associate: Graduation from a master's degree or doctoral degree educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards.

(c) Licensed marriage and family therapist associate: Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards.

(2) Associates may not provide independent social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise. Associates must work under the supervision of an approved supervisor.

(3) Associates shall provide each client or patient, during the first professional contact, with a disclosure form according to RCW 18.225.100, disclosing that he or she is an associate under the supervision of an approved supervisor.

(4) The department shall adopt by rule what constitutes adequate proof of compliance with the requirements of this section.

(2016 Ed.)

(5) Applicants are subject to the denial of a license or issuance of a conditional license for the reasons set forth in chapter 18.130 RCW.

(6) An associate license may be renewed no more than six times, provided that the applicant for renewal has successfully completed eighteen hours of continuing education in the preceding year. Beginning with the second renewal, at least six of the continuing education hours in the preceding two years must be in professional ethics. [2013 c 73 § 4; 2008 c 135 § 13.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.225.150 Renewal of license or associate license, rules—Failure to renew. The secretary shall establish by rule the procedural requirements and fees for renewal of a license or associate license. Failure to renew shall invalidate the license or associate license and all privileges granted by the license. If an associate license has lapsed, the person shall submit an updated declaration, in accordance with rules adopted by the department, that the person is working toward full licensure. If a license has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the secretary by taking continuing education courses, or meeting other standards determined by the secretary. If an associate license has lapsed, the person shall submit an updated declaration, in accordance with rules adopted by the department, that the person is working toward full licensure. [2008 c 135 § 14; 2001 c 251 § 15.]

Effective date—2008 c 135 §§ 1, 2, 7-9, and 11-19: See note following RCW 18.19.020.

18.225.160 Limitation of chapter. This chapter shall not be construed as permitting the administration or prescription of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 or 18.57 RCW, or in any way infringing upon the practice of psychology as defined in chapter 18.83 RCW, or restricting the scope of the practice of counseling for those registered under chapter 18.19 RCW, or restricting the scope of practice of persons licensed under this chapter. [2001 c 251 § 16.]

18.225.170 Retired active licenses—Rules. The secretary of the department of health shall promulgate rules relating to issuance of a retired active license under RCW 18.130.250 for mental health counselors, marriage and family therapists, advanced social workers, and independent clinical social workers. [2012 c 58 § 1.]

18.225.800 Associate license renewals—Report. To assess whether limitations on associate license renewals may be limiting the number of people able to complete the licensing process within statutory deadlines, the secretary shall report to the appropriate committees of the legislature on October 1st of each year, beginning in 2014 and ending in 2020, the number of associate licenses that have been renewed four, five, or six times. [2013 c 73 § 5.]

18.225.900 Severability—2001 c 251. 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. [2001 c 251 § 35.]

Chapter 18.230 RCW RECREATION THERAPY

Sections

18.230.005	Finding.
18.230.010	Definitions.
18.230.020	Use of title—Registration required.
18.230.030	Limitation of chapter.
18.230.040	Secretary's authority.
18.230.050	Official record.
18.230.060	Registration—Grounds for denial.
18.230.070	Registration—Required information—Fee.
18.230.080	Renewal of registration.
18.230.090	Uniform disciplinary act—Application to chapter.
18.230.901	Effective date—2002 c 216.

18.230.005 Finding. The overriding mission of therapeutic recreation is the provision of purposeful intervention designed to help clients grow and to assist them to prevent or relieve problems through recreation and leisure. It is a systematic methodology through a progression of phases, including assessment, planning, implementation, and evaluation. It is not a limited or restricted concept of service carried out only within the constraints of institutional care, but is a client-centered model that reflects a concern for the total well-being of the client. Recreation therapy is cost-effective and can decrease the costs of health care services by reducing primary and secondary disabilities. In anticipation of the expansion in long-term care, physical and psychiatric rehabilitation, and services for people with disabilities, the legislature finds and declares that the registration of recreational therapists is in the interest of the public health and safety. [2002 c 216 § 1.]

18.230.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Recreation therapy" means the use of recreational, and/or community activities to include leisure counseling and community integration as treatment intervention to improve functional leisure and community competence of persons with a physical, cognitive, emotional, behavioral, or social disability. The primary purpose of recreation therapy is the use of leisure and community integration activities to restore, remediate, or rehabilitate persons in order to improve functioning and independence, as well as reduce or eliminate the effects of illness or disability.

(3) "Recreational therapist" means a person registered under this chapter.

(4) "Registration" means the registration issued to a person under this chapter.

(5) "Secretary" means the secretary of health or the secretary's designee. [2002 c 216 § 2.]

18.230.020 Use of title—Registration required. No person may practice or represent oneself as a registered recreational therapist by use of any title without being registered to practice by the department of health, unless otherwise exempted by this chapter. [2002 c 216 § 3.]

18.230.030 Limitation of chapter. Nothing in this chapter may 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 secretary, 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. [2002 c 216 § 4.]

18.230.040 Secretary's authority. In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter;

(2) Establish all registration and renewal fees in accordance with RCW 43.70.250;

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

(4) Register any applicants who have met the requirements for registration and to deny registration to applicants who do not meet the requirements of this chapter, except that proceedings concerning the denial of registration based upon unprofessional conduct or impairment is 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

(6) Maintain the official department record of all applicants and persons registered under this chapter. [2002 c 216 § 5.]

18.230.050 Official record. The secretary must keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for registration under this chapter and the results of each application. [2002 c 216 § 6.]

18.230.060 Registration—Grounds for denial. (1) Applicants for registration under this chapter are subject to the grounds for denial of a registration under chapter 18.130 RCW.

(2) The secretary must issue a registration to an applicant who completes an application form that identifies the name and address of the applicant, the registration requested, and information required by the secretary necessary to establish whether there are grounds for denial of a registration. [2002 c 216 § 7.]

18.230.070 Registration—Required information—Fee. Applications for registration must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for registration provided for in this chapter and chapter 18.130 RCW. Each applicant must pay a fee determined by the secretary under RCW 43.70.250. The fee must accompany the application. [2002 c 216 § 8.]

18.230.080 Renewal of registration. The secretary must establish by rule the procedural requirements and fees for renewal of a registration. Failure to renew invalidates the registration and all privileges granted by the registration. [2002 c 216 § 9.]

18.230.090 Uniform disciplinary act—Application to chapter. The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of a registration, unauthorized practice, and the discipline of persons registered under this chapter. The secretary is the disciplining authority under this chapter. [2002 c 216 § 10.]

18.230.901 Effective date—2002 c 216. This act takes effect July 1, 2003. [2002 c 216 § 14.]

Chapter 18.235 RCW UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT

Sections

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18.235.900	Short title.
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18.235.902	Part headings not law—2002 c 86.
18.235.903	Severability—2002 c 86.

18.235.005 Intent. It is the intent of the legislature to consolidate disciplinary procedures for the licensed businesses and professions under the department of licensing by providing a uniform disciplinary act with standardized procedures for the regulation of businesses and professions and the enforcement of laws, the purpose of which is to assure the public of the adequacy of business and professional competence and conduct.

It is also the intent of the legislature that all businesses and professions newly credentialed by the state and regulated by the department of licensing come under this chapter. [2007 c 256 § 10; 2002 c 86 § 101.]

(2016 Ed.)

18.235.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

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

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

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term "appointment" under chapter 42.44 RCW, are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so. [2007 c 256 § 11; 2002 c 86 § 102.]

18.235.020 Application of chapter—Director's authority—Disciplinary authority. (1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and 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 businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;
 (xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Whitewater river outfitters under chapter 79A.60 RCW;

(xxi) Home inspectors under chapter 18.280 RCW;

(xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

(xxiii) Appraisal management companies under chapter 18.310 RCW.

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

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. 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 under RCW 18.235.110 by the disciplinary authority. [2013 c 322 § 29; 2010 c 179 § 18. Prior: 2009 c 412 § 22; 2009 c 370 § 20; 2009 c 102 § 5; 2008 c 119 § 21; 2007 c 256 § 12; 2006 c 219 § 13; 2002 c 86 § 103.]

Effective date—2010 c 179: See RCW 18.310.901.

Short title—Implementation—2009 c 412: See RCW 18.300.900 and 18.300.902.

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Effective date—2006 c 219: See note following RCW 46.82.285.

18.235.030 Disciplinary authority—Powers. The disciplinary authority has the power to:

(1) Adopt, amend, and rescind rules as necessary to carry out the purposes of this chapter, including, but not limited to,

rules regarding standards of professional conduct and practice;

(2) Investigate complaints or reports of unprofessional conduct and hold hearings as provided in this chapter;

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

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

(5) Compel attendance of witnesses at hearings;

(6) Conduct practice reviews in the course of investigating a complaint or report of unprofessional conduct, unless the disciplinary authority is authorized to audit or inspect applicants or licensees under the chapters specified in RCW 18.235.020;

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

(8) Appoint a presiding officer or authorize the office of administrative hearings, as provided in chapter 34.12 RCW, to conduct hearings. The disciplinary authority may make the final decision regarding disposition of the license unless the disciplinary authority elects to delegate, in writing, the final decision to the presiding officer;

(9) Use individual members of the boards and commissions to direct investigations. However, the member of the board or commission may not subsequently participate in the hearing of the case;

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

(11) Grant or deny license applications, secure the return of a license obtained through the mistake or inadvertence of the department or the disciplinary authority after providing the person so licensed with an opportunity for an adjudicative proceeding, and, in the event of a finding of unprofessional conduct by an applicant or license holder, impose any sanction against a license applicant or license holder provided by this chapter;

(12) Designate individuals authorized to sign subpoenas and statements of charges;

(13) Establish panels consisting of three or more members of the board or commission to perform any duty or authority within the board's or commission's jurisdiction under this chapter; and

(14) Contract with licensees, registrants, endorsement or permit holders, or any other persons or organizations to provide services necessary for the monitoring or supervision of licensees, registrants, or endorsement or permit holders who are placed on probation, whose professional or business activities are restricted, or who are for an authorized purpose subject to monitoring by the disciplinary authority. If the subject licensee, registrant, or endorsement or permit holders may only practice or operate a business under the supervision of another licensee, registrant, or endorsement or permit holder under the terms of the law regulating that occupation or business, the supervising licensee, registrant, or endorsement or permit holder must consent to the monitoring or supervision under this subsection, unless the supervising

licensee, registrant, or endorsement or permit holder is, at the time, the subject of a disciplinary order. [2002 c 86 § 104.]

18.235.040 Director's authority. The director has the following additional authority:

(1) To employ investigative, administrative, and clerical staff as necessary for the enforcement of this chapter, except as provided otherwise by statute;

(2) Upon request of a board or commission, to appoint not more than three pro tem members as provided in this subsection. Individuals appointed as pro tem members of a board or commission must meet the same minimum qualifications as regular members of the board or commission. While serving as a pro tem board or commission member, a person so appointed has all the powers, duties, and immunities, and is entitled to the entitlements, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of a regular member of the board or commission; and

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation or adjudicative proceedings as authorized by RCW 34.05.446. [2007 c 256 § 13; 2002 c 86 § 105.]

18.235.050 Statement of charges—Hearing. (1) If the disciplinary authority determines, upon investigation, that there is reason to believe that a license holder or applicant for a license has violated RCW 18.235.130 or has not met a minimum eligibility criteria for licensure, the disciplinary authority may prepare and serve the license holder or applicant a statement of charge, charges, or intent to deny. A notice that the license holder or applicant may request a hearing to contest the charge, charges, or intent to deny must accompany the statement. The license holder or applicant must file a request for a hearing with the disciplinary authority within twenty days after being served the statement of charges or statement of intent to deny. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a decision on the facts available to it.

(2) If a license holder or applicant for a license requests a hearing, the disciplinary authority must fix the time of the hearing as soon as convenient, but not earlier than thirty days after the service of charge, charges, or intent to deny. The disciplinary authority may hold a hearing sooner than thirty days only if the disciplinary authority has issued a summary suspension or summary restriction. [2007 c 256 § 14; 2002 c 86 § 106.]

18.235.060 Procedures governing adjudicative proceedings. The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern all hearings before the disciplinary authority. The disciplinary authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.05 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. [2002 c 86 § 107.]

18.235.070 Previous denial, revocation, or suspension of license. The department shall not issue a license to

any person whose license has been previously denied, revoked, or suspended by the disciplinary authority for that profession or business, 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 disciplinary authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter. [2002 c 86 § 108.]

18.235.080 Orders. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.05 RCW, or an order of summary suspension entered under this chapter, takes effect immediately upon its being served. The final order, if appealed to the court, may not be stayed pending the appeal unless the disciplinary authority or court to which the appeal is taken enters an order staying the order of the disciplinary authority, which stay shall provide for terms necessary to protect the public. [2007 c 256 § 15; 2002 c 86 § 109.]

18.235.090 Appeal. A person who has been disciplined or has been denied a license by a disciplinary authority may appeal the decision as provided in chapter 34.05 RCW. [2007 c 256 § 16; 2002 c 86 § 110.]

18.235.100 Reinstatement. A person whose license has been suspended or revoked under this chapter may petition the disciplinary authority for reinstatement after an interval of time and upon conditions determined by the disciplinary authority in the order suspending or revoking the license. The disciplinary authority shall act on the petition in accordance with the adjudicative proceedings provided under chapter 34.05 RCW and may impose such conditions as authorized by RCW 18.235.110. The disciplinary authority may require successful completion of an examination as a condition of reinstatement. [2007 c 256 § 17; 2002 c 86 § 111.]

18.235.110 Unprofessional conduct—Finding. (1) Upon finding unprofessional conduct, except as provided in RCW 9.97.020, the disciplinary authority may issue an order providing for one or any combination of the following:

- (a) Revocation of the license for an interval of time;
- (b) Suspension of the license for a fixed or indefinite term;
- (c) Restriction or limitation of the practice;
- (d) Satisfactory completion of a specific program of remedial education or treatment;
- (e) Monitoring of the practice in a manner directed by the disciplinary authority;
- (f) Censure or reprimand;
- (g) Compliance with conditions of probation for a designated period of time;
- (h) Payment of a fine for each violation found by the disciplinary authority, not to exceed five thousand dollars per violation. The disciplinary authority must consider aggravating or mitigating circumstances in assessing any fine. Funds received must be deposited in the related program account;
- (i) Denial of an initial or renewal license application for an interval of time; or
- (j) Other corrective action.

(2) The disciplinary authority may require reimbursement to the disciplinary authority for the investigative costs incurred in investigating the matter that resulted in issuance of an order under this section, but only if any of the sanctions in subsection (1)(a) through (j) of this section is ordered.

(3) Any of the actions under this section may be totally or partly stayed by the disciplinary authority. In determining what action is appropriate, the disciplinary authority must first consider what sanctions are necessary to protect the public health, safety, or welfare. Only after these provisions have been made may the disciplinary 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.

(4) The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct. The stipulations entered into under this subsection are considered formal disciplinary action for all purposes. [2016 c 81 § 14; 2007 c 256 § 18; 2002 c 86 § 112.]

Finding—Conflict with federal requirements—2016 c 81: See notes following RCW 9.97.010.

18.235.120 Payment of a fine. Where payment of a fine is required as a result of a disciplinary action under RCW 18.235.060 or 18.235.150 and timely payment is not made as directed in the final order, the disciplinary authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement is in addition to any other rights the disciplinary authority may have as to any licensee ordered to pay a fine but may not be construed to limit a licensee's ability to seek judicial review under RCW 18.235.090. In any action for enforcement of an order of payment of a fine, the disciplinary authority's order is conclusive proof of the validity of the order of a fine and the terms of payment. [2002 c 86 § 113.]

18.235.130 Unprofessional conduct—Acts or conditions that constitute. 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 or operation of the person's business, whether the act constitutes a crime or not. At the disciplinary hearing a certified copy of a final holding of any court of competent jurisdiction is conclusive evidence of the conduct of the license holder or applicant upon which a conviction or the final holding is based. Upon 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 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. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

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

(3) Advertising that is false, deceptive, or misleading;

(4) Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another;

(5) The suspension, revocation, or restriction of a license to engage in any business or profession by competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the revocation, suspension, or restriction;

(6) Failure to cooperate with the disciplinary authority in the course of an investigation, audit, or inspection authorized by law by:

(a) Not furnishing any papers or documents requested by the disciplinary authority;

(b) Not furnishing in writing an explanation covering the matter contained in a complaint when requested by the disciplinary authority;

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

(d) Not providing authorized access, during regular business hours, to representatives of the disciplinary authority conducting an investigation, inspection, or audit at facilities utilized by the license holder or applicant;

(7) Failure to comply with an order issued by the disciplinary authority;

(8) Violating any of the provisions of this chapter or the chapters specified in RCW 18.235.020(2) or any rules made by the disciplinary authority under the chapters specified in RCW 18.235.020(2);

(9) Aiding or abetting an unlicensed person to practice or operate a business or profession when a license is required;

(10) Practice or operation of a business or profession beyond the scope of practice or operation as defined by law or rule;

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

(12) Failure to adequately supervise or oversee auxiliary staff, whether employees or contractors, to the extent that consumers may be harmed or damaged;

(13) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession or operation of the person's business. 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. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(14) Interference with an investigation or disciplinary action by willful misrepresentation of facts before the disci-

plinary authority or its authorized representatives, or by the use of threats or harassment against any consumer or witness to discourage them from providing evidence in a disciplinary action or any other legal action, or by the use of financial inducements to any consumer or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary action; and

(15) Engaging in unlicensed practice as defined in RCW 18.235.010. [2007 c 256 § 19; 2002 c 86 § 114.]

18.235.140 Final order issued under RCW 18.235.130—Failure to comply. If a person or business regulated by this chapter violates or fails to comply with a final order issued under RCW 18.235.130, the attorney general, any prosecuting attorney, the director, the board or commission, or any other person may maintain an action in the name of the state of Washington to enjoin the person from violating the order or failing to comply with the order. The injunction does not relieve the offender from criminal prosecution, but the remedy by injunction is in addition to the liability of the offender to criminal prosecution and disciplinary action. [2002 c 86 § 115.]

18.235.150 Investigation of complaint—Cease and desist order/notice of intent to issue—Final determination—Fine—Temporary cease and desist order—Action/who may maintain—Remedies not limited. (1) The disciplinary authority may investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.235.020. In the investigation of the complaints, the director has the same authority as provided the disciplinary authority under RCW 18.235.030.

(2) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in the unlicensed practice of a profession or operation of a business for which a license is required by the chapters specified in RCW 18.235.020.

(3) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in an act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters.

(4) The person to whom such a notice is issued may request an adjudicative proceeding to contest the allegations. The notice shall include a brief, plain statement of the alleged unlicensed activities, act, or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters. The request for hearing must be filed within twenty days after service of the notice of intent to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(5) If the disciplinary authority makes a final determination that a person has engaged or is engaging in unlicensed

practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters, the disciplinary authority may issue a permanent cease and desist order. In addition, the disciplinary authority may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in the unlicensed practice of a profession or operation of a business for which a license is required by one or more of the chapters specified in RCW 18.235.020. The proceeds of such a fine shall be deposited in the related program account.

(6) The disciplinary authority may issue a temporary cease and desist order if a person is engaged or is about to engage in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters if the disciplinary authority makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. A temporary cease and desist order shall remain in effect until further order of the disciplinary authority. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine.

(7) The cease and desist order is conclusive proof of unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(8) The attorney general, a county prosecuting attorney, the director, a board or commission, or any person may, in accordance with the laws of this state governing injunctions, maintain an action in the name of the state of Washington to enjoin any person practicing a profession or business without a license for which a license is required by the chapters specified in RCW 18.235.020. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be deposited in the related program account.

(9) The civil remedies in this section do not limit the ability to pursue criminal prosecution as authorized in any of the acts specified in RCW 18.235.020 nor do the civil remedies limit any criminal sanctions. [2007 c 256 § 20; 2002 c 86 § 116.]

18.235.160 Violation of injunction—Contempt of court—Civil penalty. A person or business that violates an injunction issued under this chapter may be found in contempt of court under RCW 7.21.010. Upon a finding by a court of competent jurisdiction that the person or business is in contempt, the court may order any remedial sanction as authorized by RCW 7.21.030. Further, the court may, in addition to the remedial sanctions available under RCW 7.21.030, order the person or business to pay a civil penalty to the state in an amount not to exceed twenty-five thousand dollars,

which shall be deposited in the related program account. For the purposes of this section, the superior court issuing any injunction retains 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. [2002 c 86 § 117.]

18.235.170 Misrepresentation—Gross misdemeanor.

A person who attempts to obtain, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor. [2002 c 86 § 118.]

18.235.180 Crime or violation by license holder—Disciplinary authority may give notification. If the disciplinary authority has reason to believe that a license holder has committed a crime, or violated the laws of another regulatory body, the disciplinary authority may notify the attorney general or the county prosecuting attorney in the county in which the act took place, or other responsible official of the facts known to the disciplinary authority. [2002 c 86 § 119.]

18.235.190 Immunity from suit. The director, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary actions or other official acts performed in the course of their duties. [2002 c 86 § 120.]

18.235.200 Use of records—Exchange of information—Chapter does not affect or limit. This chapter does not affect the use of records, obtained from the director or the disciplinary authorities, in any existing investigation or action by any public agency. Nor does this chapter limit any existing exchange of information between the director or the disciplinary authorities and other public agencies. [2002 c 86 § 121.]

18.235.210 Application of chapter—January 1, 2003.

(1) This chapter applies to any conduct, acts, or conditions occurring on or after January 1, 2003.

(2) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to January 1, 2003. The conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted.

(3) Notwithstanding subsection (2) of this section, this chapter applies to applications for licensure made on or after January 1, 2003. [2007 c 256 § 21; 2002 c 86 § 122.]

18.235.900 Short title. This chapter may be known and cited as the uniform regulation of business and professions act. [2002 c 86 § 123.]

18.235.901 Effective date—2002 c 86 §§ 101-123. Sections 101 through 123 of this act take effect January 1, 2003. [2002 c 86 § 124.]

18.235.902 Part headings not law—2002 c 86. Part headings used in this act are not any part of the law. [2002 c 86 § 402.]

18.235.903 Severability—2002 c 86. 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. [2002 c 86 § 404.]

Chapter 18.240 RCW

ANIMAL MASSAGE PRACTITIONERS

Sections

18.240.005	Finding.
18.240.010	Definitions.
18.240.020	Certification required.
18.240.030	Certification requirements.
18.240.040	Limitation of chapter.
18.240.050	Secretary's authority.
18.240.060	Examinations.
18.240.070	Applicant certification—Fees.
18.240.080	Renewal of certification.
18.240.090	Application of uniform disciplinary act.

18.240.005 Finding. (Effective until July 1, 2017.) The certification of animal massage practitioners is in the interest of the public health, safety, and welfare. While veterinarians and certain massage practitioners may perform animal massage techniques, the legislature finds that meeting all of the requirements of those professions can be unnecessarily cumbersome for those individuals who would like to limit their practice only to animal massage. [2007 c 70 § 1.]

18.240.005 Finding. (Effective July 1, 2017.) The certification of animal massage therapists is in the interest of the public health, safety, and welfare. While veterinarians and certain massage therapists may perform animal massage techniques, the legislature finds that meeting all of the requirements of those professions can be unnecessarily cumbersome for those individuals who would like to limit their practice only to animal massage. [2016 c 41 § 19; 2007 c 70 § 1.]

Effective date—2016 c 41: See note following RCW 18.108.010.

18.240.010 Definitions. (Effective until July 1, 2017.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the veterinary board of governors established in chapter 18.92 RCW.

(2) "Certified animal massage practitioner" means an individual who provides external manipulation or pressure of soft tissues by use of the hands, body, or device designed and limited to providing massage. Animal massage may include techniques such as stroking, percussions, compressions, friction, Swedish gymnastics or movements, gliding, kneading, range of motion or stretching, and fascial or connective tissue stretching, with or without the aid of superficial heat, cold, water, lubricants, or salts. Animal massage does not include: Diagnosis, prognosis, or all treatment of diseases, deformities, defects, wounds, or injuries of animals; attempts to adjust or manipulate any articulations of the animal's body or spine or mobilization of these articulations by the use of a

thrusting force; acupuncture involving the use of needles; or mechanical therapies that are restricted to the field of veterinary medicine. Animal massage may be performed solely for purposes of patient well-being.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee. [2007 c 70 § 2.]

18.240.010 Definitions. (Effective July 1, 2017.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the veterinary board of governors established in chapter 18.92 RCW.

(2) "Certified animal massage therapist" means an individual who provides external manipulation or pressure of soft tissues by use of the hands, body, or device designed and limited to providing massage. Animal massage may include techniques such as stroking, percussions, compressions, friction, Swedish gymnastics or movements, gliding, kneading, range of motion or stretching, and fascial or connective tissue stretching, with or without the aid of superficial heat, cold, water, lubricants, or salts. Animal massage does not include: Diagnosis, prognosis, or all treatment of diseases, deformities, defects, wounds, or injuries of animals; attempts to adjust or manipulate any articulations of the animal's body or spine or mobilization of these articulations by the use of a thrusting force; acupuncture involving the use of needles; or mechanical therapies that are restricted to the field of veterinary medicine. Animal massage may be performed solely for purposes of patient well-being.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee. [2016 c 41 § 20; 2007 c 70 § 2.]

Effective date—2016 c 41: See note following RCW 18.108.010.

18.240.020 Certification required. (Effective until July 1, 2017.) No person may practice as a certified animal massage practitioner in this state without having a certification issued by the secretary unless he or she is exempt under RCW 18.240.040. [2007 c 70 § 3.]

18.240.020 Certification required. (Effective July 1, 2017.) No person may practice as a certified animal massage therapist in this state without having a certification issued by the secretary unless he or she is exempt under RCW 18.240.040. [2016 c 41 § 21; 2007 c 70 § 3.]

Effective date—2016 c 41: See note following RCW 18.108.010.

18.240.030 Certification requirements. The secretary shall issue a certificate to any applicant who demonstrates that the following requirements have been met:

(1) Successful completion of a training program approved by the secretary that includes three hundred hours of instruction in general animal massage techniques, kinesiology, anatomy, physiology, behavior, first aid care, and handling techniques as follows:

(a) For a certificate to practice animal massage on large animals, the three hundred hours of specialized instruction must be related to the performance of animal massage on large animals; and

(b) For a certificate to practice animal massage on small animals, the three hundred hours of specialized instruction must be related to the performance of animal massage on small animals; and

(2) Successful completion of a competency evaluation, approved by the secretary, in either large animal massage or small animal massage, or both. [2007 c 70 § 4.]

18.240.040 Limitation of chapter. Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice of veterinary medicine by those who are in compliance with chapter 18.92 RCW;

(2) The practice of animal massage by those who are in compliance with chapter 18.108 RCW;

(3) The practice of animal massage therapy by a person who is a regular student in an educational program 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; or

(4) The use of animal massage techniques by the owner of the animal who is the recipient of the services or by an employee of the owner or another person providing gratuitous assistance. [2007 c 70 § 5.]

18.240.050 Secretary's authority. In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW as required to implement this chapter;

(2) Establish all certification and renewal fees in accordance with RCW 43.70.110 and 43.70.250;

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

(4) Certify an applicant or deny certification based upon unprofessional conduct or impairment governed by the uniform disciplinary act, chapter 18.130 RCW;

(5) Deny certification to applicants who do not meet the training, competency evaluation, and conduct requirements for certification;

(6) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter;

(7) Maintain the official department record for all applicants and persons with certifications;

(8) Review coursework and training taken by an applicant in another state to determine whether it is substantially equivalent to that required under this chapter and determine whether additional coursework or training is needed before taking an examination for certification under RCW 18.240.060;

(9) Approve education and training programs; and

(10) Convene temporary work groups of individuals knowledgeable in the practice of animal massage to advise the secretary on appropriate standards of practice and credentialing, as necessary. [2007 c 70 § 6.]

18.240.060 Examinations. (1) The date and location of examinations must be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for obtaining a certificate must be scheduled for the next examination following the filing of the application.

The secretary shall establish by rule the examination application deadline.

(2) The secretary shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. The examinations must 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 must be preserved for a period of not less than one year after the secretary has made and published the decisions. All examinations must 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 secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require remedial education before the person may take future examinations.

(5) The secretary 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 certification requirements. [2007 c 70 § 7.]

18.240.070 Applicant certification—Fees. The secretary shall certify an applicant on forms provided by the secretary. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee must accompany the application. [2007 c 70 § 8.]

18.240.080 Renewal of certification. The secretary shall establish by rule the procedural requirements and fees for renewal of certification. Failure to renew invalidates the certification and all privileges granted by the certification. [2007 c 70 § 9.]

18.240.090 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs the uncertified practice, the issuance and denial of certification, and the discipline of persons certified under this chapter. The secretary is the disciplining authority under this chapter. [2007 c 70 § 10.]

Chapter 18.250 RCW ATHLETIC TRAINERS

Sections

18.250.005	Purpose.
18.250.010	Definitions.
18.250.020	Secretary's authority—Application of uniform disciplinary act.
18.250.030	Athletic training advisory committee.
18.250.040	License required.
18.250.050	Limitations of chapter.
18.250.060	Applicant requirements.
18.250.070	Treatment, rehabilitation, and reconditioning—Referral to licensed health care provider.
18.250.080	Application procedures, requirements, and fees.
18.250.090	Practice setting not restricted.
18.250.100	Health carrier contract with athletic trainer not required.
18.250.901	Effective date—2007 c 253.
18.250.902	Implementation—2007 c 253.

18.250.005 Purpose. It is the purpose of this chapter to provide for the licensure of persons offering athletic training services to the public and to ensure standards of competence and professional conduct on the part of athletic trainers. [2007 c 253 § 1.]

18.250.010 Definitions. (Effective until July 1, 2017.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in RCW 18.250.070;

(v) Treatment, rehabilitation, and reconditioning of work-related injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, under the direct supervision of and in accordance with a plan of care for an individual worker established by a provider authorized to provide physical medicine and rehabilitation services for injured workers; and

(vi) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with RCW 18.250.070.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of East Asian medicine as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

(6) "Department" means the department of health.

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, osteopathic physician assistant, advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage practitioner, acupuncturist, occupational therapist, or podiatric physician and surgeon.

(8) "Secretary" means the secretary of health or the secretary's designee. [2014 c 194 § 1; 2007 c 253 § 2.]

18.250.010 Definitions. (Effective July 1, 2017.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in RCW 18.250.070;

(v) Treatment, rehabilitation, and reconditioning of work-related injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, under the direct supervision of and in accordance with a plan of care for an individual worker established by a provider authorized to provide physical medicine and rehabilitation services for injured workers; and

(vi) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with RCW 18.250.070.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of East Asian medicine as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

(6) "Department" means the department of health.

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, osteopathic physician assistant, advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage therapist, acupuncturist, occupational therapist, or podiatric physician and surgeon.

(8) "Secretary" means the secretary of health or the secretary's designee. [2016 c 41 § 22; 2014 c 194 § 1; 2007 c 253 § 2.]

Effective date—2016 c 41: See note following RCW 18.108.010.

18.250.020 Secretary's authority—Application of uniform disciplinary act. (1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Establish all license, examination, and renewal fees in accordance with RCW 43.70.250;

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

(d) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.250 and 43.70.280. All fees collected under this section must be credited to the health professions account as required under RCW 43.70.320;

(e) Develop and administer, or approve, or both, examinations to applicants for a license under this chapter;

(f) Establish continuing education requirements by rule;

(g) Issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure. However, denial of licenses based on unprofessional conduct or impaired practice is governed by the uniform disciplinary act, chapter 18.130 RCW;

(h) In consultation with the committee, approve examinations prepared or administered by private testing agencies or organizations for use by an applicant in meeting the licensing requirements under RCW 18.250.060;

(i) Determine which states have credentialing requirements substantially equivalent to those of this state, and issue licenses to individuals credentialed in those states that have successfully fulfilled the requirements of RCW 18.250.080;

(j) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter;

(k) Maintain the official department record of all applicants and licensees; and

(l) Establish requirements and procedures for an inactive license.

(2) 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. [2014 c 194 § 2; 2007 c 253 § 3.]

18.250.030 Athletic training advisory committee. (1)

The athletic training advisory committee is formed to further the purposes of this chapter.

(2) The committee consists of five members. Four members of the committee must be athletic trainers licensed under this chapter and residing in this state, must have not less than five years' experience in the practice of athletic training, and must be actively engaged in practice within two years of appointment. The fifth member must be appointed from the public at large, and have an interest in the rights of consumers of health services.

(3) The committee may provide advice on matters specifically identified and requested by the secretary, such as applications for licenses.

(4) The committee may be requested by the secretary to approve an examination required for licensure under this chapter.

(5) The committee, at the request of the secretary, may recommend rules in accordance with the administrative procedure act, chapter 34.05 RCW, relating to standards for appropriateness of athletic training care.

(6) The committee must meet during the year as necessary to provide advice to the secretary. The committee may elect a chair and a vice chair. A majority of the members currently serving constitute a quorum.

(7) Each member of the committee must be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committee must be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of the committee.

(8) The secretary, members of the committee, 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. [2007 c 253 § 4.]

18.250.040 License required. It is unlawful for any person to practice or offer to practice as an athletic trainer, or to represent themselves or other persons to be legally able to provide services as an athletic trainer, unless the person is licensed under the provisions of this chapter. [2007 c 253 § 5.]

18.250.050 Limitations of chapter. Nothing in this chapter may prohibit, restrict, or require licensure of:

(1) Any person licensed, certified, or registered in 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 as an athletic trainer while engaged in the performance of duties prescribed by the laws of the United States;

(3) Any person pursuing a supervised course of study in an accredited athletic training educational program, if the person is designated by a title that clearly indicates a student or trainee status;

(4) An athletic trainer from another state for purposes of continuing education, consulting, or performing athletic training services while accompanying his or her group, individual, or representatives into Washington state on a temporary basis for no more than ninety days in a calendar year;

(5) Any elementary, secondary, or postsecondary school teacher, educator, coach, or authorized volunteer who does not represent themselves to the public as an athletic trainer; or

(6) A personal trainer employed by an athletic club or fitness center. [2007 c 253 § 6.]

18.250.060 Applicant requirements. An applicant for an athletic trainer license must:

(1) Have received a bachelor's or advanced degree from an accredited four-year college or university that meets the academic standards of athletic training, accepted by the secretary, as advised by the committee;

(2) Have successfully completed an examination administered or approved by the secretary, in consultation with the committee; and

(3) Submit an application on forms prescribed by the secretary and pay the licensure fee required under this chapter. [2007 c 253 § 7.]

18.250.070 Treatment, rehabilitation, and reconditioning—Referral to licensed health care provider. (1)

Except as necessary to provide emergency care of athletic injuries, an athletic trainer shall not provide treatment, rehabilitation, or reconditioning services to any person except as specified in guidelines established with a licensed health care provider who is licensed to perform the services provided in the guidelines.

(2) If there is no improvement in an athlete who has sustained an athletic injury within fifteen days of initiation of treatment, rehabilitation, or reconditioning, the athletic trainer must refer the athlete to a licensed health care provider that is appropriately licensed to assist the athlete.

(3) If an athletic injury requires treatment, rehabilitation, or reconditioning for more than forty-five days, the athletic trainer must consult with, or refer the athlete to a licensed health care provider. The athletic trainer shall document the action taken. [2007 c 253 § 8.]

18.250.080 Application procedures, requirements, and fees. Each applicant and license holder must comply with administrative procedures, administrative requirements, and fees under RCW 43.70.250 and 43.70.280. The secretary shall furnish a license to any person who applies and who has qualified under the provisions of this chapter. [2007 c 253 § 9.]

18.250.090 Practice setting not restricted. Nothing in this chapter restricts the ability of athletic trainers to work in the practice setting of his or her choice. [2007 c 253 § 10.]

18.250.100 Health carrier contract with athletic trainer not required. Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person licensed as an athletic trainer under this chapter. [2007 c 253 § 11.]

18.250.901 Effective date—2007 c 253. This act takes effect July 1, 2008. [2007 c 253 § 16.]

18.250.902 Implementation—2007 c 253. The secretary of health may take the necessary steps to ensure that this act is implemented on its effective date. [2007 c 253 § 17.]

Chapter 18.260 RCW DENTAL PROFESSIONALS

Sections

18.260.010	Definitions.
18.260.020	Registration or license required.
18.260.030	Dental assistants—Registration.
18.260.040	Dental assistants—Scope of practice.
18.260.050	Expanded function dental auxiliary—License.
18.260.060	Expanded function dental auxiliary—License—Reciprocity.
18.260.065	Registration or licensing requirements—Military training or experience.
18.260.070	Expanded function dental auxiliary—Scope of practice.
18.260.080	Supervising dentist—Responsibilities.
18.260.090	Initial or renewal credentials—Issuance and denial.
18.260.100	Examinations.
18.260.110	Limitation of chapter.
18.260.120	Rules.
18.260.130	Application of uniform disciplinary act.
18.260.140	Department review.
18.260.900	Application—2007 c 269.
18.260.901	Implementation—2007 c 269.

(2016 Ed.)

18.260.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Close supervision" means that a supervising dentist whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervising dentist is continuously on-site and physically present in the treatment facility while the procedures are performed by the assistive personnel and capable of responding immediately in the event of an emergency. The term does not require a supervising dentist to be physically present in the operatory.

(2) "Commission" means the Washington state dental quality assurance commission created in chapter 18.32 RCW.

(3) "Dental assistant" means a person who is registered by the commission to provide supportive services to a licensed dentist to the extent provided in this chapter and under the close supervision of a dentist.

(4) "Dentist" means an individual who holds a license to practice dentistry under chapter 18.32 RCW.

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

(6) "Expanded function dental auxiliary" means a person who is licensed by the commission to provide supportive services to a licensed dentist to the extent provided in this chapter and under the specified level of supervision of a dentist.

(7) "General supervision" means that a supervising dentist has examined and diagnosed the patient and provided subsequent instructions to be performed by the assistive personnel, but does not require that the dentist be physically present in the treatment facility.

(8) "Secretary" means the secretary of health.

(9) "Supervising dentist" means a dentist licensed under chapter 18.32 RCW that is responsible for providing the appropriate level of supervision for dental assistants and expanded function dental auxiliaries. [2007 c 269 § 1.]

18.260.020 Registration or license required. (1) No person may practice or represent himself or herself as a registered dental assistant by use of any title or description without being registered by the commission as having met the standards established for registration under this chapter unless he or she is exempt under RCW 18.260.110.

(2) No person may practice or represent himself or herself as a licensed expanded function dental auxiliary by use of any title or description without being licensed by the commission under this chapter unless he or she is exempt under RCW 18.260.110. [2007 c 269 § 2.]

18.260.030 Dental assistants—Registration. The commission shall issue a registration to practice as a dental assistant to any applicant who pays any applicable fees, as established by the secretary in accordance with RCW 43.70.110 and 43.70.250, and submits, on forms provided by the secretary, the applicant's name, address, and other information as determined by the secretary. [2007 c 269 § 3.]

18.260.040 Dental assistants—Scope of practice. (1)(a) The commission shall adopt rules relating to the scope of dental assisting services related to patient care and laboratory duties that may be performed by dental assistants.

(b) In addition to the services and duties authorized by the rules adopted under (a) of this subsection, a dental assistant may apply topical anesthetic agents.

(c) All dental services performed by dental assistants under (a) or (b) of this subsection must be performed under the close supervision of a supervising dentist as the dentist may allow.

(2) In addition to any other limitations established by the commission, dental assistants may not perform the following procedures:

- (a) Any scaling procedure;
- (b) Any oral prophylaxis, except coronal polishing;
- (c) Administration of any general or local anesthetic, including intravenous sedation;
- (d) Any removal of or addition to the hard or soft tissue of the oral cavity;
- (e) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth, jaw, or adjacent structures; and
- (f) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis, other than impressions allowed as a delegated duty for dental assistants pursuant to rules adopted by the commission.

(3) A dentist may not assign a dental assistant to perform duties until the dental assistant has demonstrated skills necessary to perform competently all assigned duties and responsibilities. [2015 c 120 § 3; 2013 c 87 § 4; 2007 c 269 § 5.]

18.260.050 Expanded function dental auxiliary—License. (1) The commission shall issue a license to practice as an expanded function dental auxiliary to any applicant who:

- (a) Pays any applicable fees as established by the secretary in accordance with RCW 43.70.110 and 43.70.250;
- (b) Submits, on forms provided by the secretary, the applicant's name, address, and other applicable information as determined by the secretary; and
- (c) Demonstrates that the following requirements have been met:
 - (i) Successful completion of a dental assisting education program approved by the commission. The program may be an approved online education program;
 - (ii) Successful completion of an expanded function dental auxiliary education program approved by the commission; and
 - (iii) Successful passage of both a written examination and a clinical examination in restorations approved by the commission.

(2)(a) An applicant that holds a limited license to practice dental hygiene under chapter 18.29 RCW is considered to have met the dental assisting education program requirements of subsection (1)(c)(i) of this section.

(b) An applicant that holds a full license to practice dental hygiene under chapter 18.29 RCW is considered to have met the requirements of subsection (1)(c) of this section upon demonstrating the successful completion of training in taking final impressions as approved by the commission. [2007 c 269 § 4.]

18.260.060 Expanded function dental auxiliary—License—Reciprocity. An applicant holding a license in another state may be licensed as an expanded function dental auxiliary in this state without examination if the commission determines that the other state's licensing standards are substantially equivalent to the standards in this state. [2007 c 269 § 9.]

18.260.065 Registration or licensing requirements—Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the commission determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 32 § 14.]

18.260.070 Expanded function dental auxiliary—Scope of practice. (1) The commission shall adopt rules relating to the scope of expanded function dental auxiliary services related to patient care and laboratory duties that may be performed by expanded function dental auxiliaries.

(2) The scope of expanded function dental auxiliary services that the commission identifies in subsection (1) of this section includes:

(a) In addition to the dental assisting services that a dental assistant may perform under the close supervision of a supervising dentist, the performance of the following services under the general supervision of a supervising dentist as the dentist may allow:

- (i) Performing coronal polishing;
- (ii) Giving fluoride treatments;
- (iii) Applying sealants;
- (iv) Placing dental x-ray film and exposing and developing the films;
- (v) Giving patient oral health instruction; and
- (b) Notwithstanding any prohibitions in RCW 18.260.040, the performance of the following services under the close supervision of a supervising dentist as the dentist may allow:

- (i) Placing and carving direct restorations; and
- (ii) Taking final impressions.

(3) A dentist may not assign an expanded function dental auxiliary to perform services until the expanded function dental auxiliary has demonstrated skills necessary to perform competently all assigned duties and responsibilities. [2007 c 269 § 6.]

18.260.080 Supervising dentist—Responsibilities. A supervising dentist is responsible for:

- (1) Maintaining the appropriate level of supervision for dental assistants and expanded function dental auxiliaries; and
- (2) Ensuring that the dental assistants and expanded function dental auxiliaries that the dentist supervises are able to competently perform the tasks that they are assigned. [2007 c 269 § 7.]

18.260.090 Initial or renewal credentials—Issuance and denial. The commission shall issue an initial credential or renewal credential to an applicant who has met the requirements for a credential or deny an initial credential or renewal

credential based upon failure to meet the requirements for a credential or unprofessional conduct or impairment governed by chapter 18.130 RCW. [2007 c 269 § 8.]

18.260.100 Examinations. (1) The commission may approve a written examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the licensing requirements under RCW 18.260.050. The requirement that the examination be written does not exclude the use of computerized test administration.

(2) The commission, upon consultation with the dental hygiene examining committee, may approve a clinical examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the licensing requirements under RCW 18.260.050. [2007 c 269 § 10.]

18.260.110 Limitation of chapter. Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice of a dental assistant in the discharge of official duties by dental assistants in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(2) Expanded function dental auxiliary education and training programs approved by the commission and the practice as an expanded function dental auxiliary by students in expanded function dental auxiliary education and training programs approved by the commission, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW;

(3) Dental assistant education and training programs, and the practice of dental assisting by students in dental assistant education and training programs approved by the commission or offered at a school approved or licensed by the workforce training and education coordinating board, student achievement council, state board for community and technical colleges, or Washington state skill centers certified by the office of the superintendent of public instruction, when acting under the direction and supervision of persons registered or licensed under this chapter or chapter 18.29 or 18.32 RCW; or

(4) The practice of a volunteer dental assistant providing services under the supervision of a licensed dentist in a charitable dental clinic, as approved by the commission in rule. [2012 c 229 § 502; 2008 c 150 § 1; 2007 c 269 § 11.]

Effective date—2012 c 229 §§ 101, 117, 401, 402, 501 through 594, 601 through 609, 701 through 708, 801 through 821, 902, and 904: See note following RCW 28B.77.005.

18.260.120 Rules. The commission may adopt rules under chapter 34.05 RCW as required to implement this chapter. [2007 c 269 § 12.]

18.260.130 Application of uniform disciplinary act. Chapter 18.130 RCW governs unregistered or unlicensed practice, the issuance and denial of credentials, and the discipline of those credentialed under this chapter. The commission is the disciplining authority under this chapter. [2007 c 269 § 13.]

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18.260.140 Department review. By November 15, 2012, the department, in consultation with the commission and the dental hygiene examining committee, shall conduct a review of the effectiveness of the creation of the dental assistant and expanded function dental auxiliary professions as related to:

- (1) Increasing professional standards in dental practices;
- (2) Increasing efficiency in dental practices and community health clinics;
- (3) Promoting career ladders in the dental professions; and
- (4) Recommendations for expanding or contracting the practice of dental assistants and expanded function dental auxiliaries. [2007 c 269 § 18.]

18.260.900 Application—2007 c 269. (1) The provisions of this act apply to registered dental assistants effective July 1, 2008.

(2) The provisions of this act apply to expanded function dental auxiliaries effective December 1, 2008. [2007 c 269 § 21.]

18.260.901 Implementation—2007 c 269. The secretary of health and the Washington state dental quality assurance commission may take the necessary steps to ensure that this act is implemented on its effective date. [2007 c 269 § 22.]

Chapter 18.270 RCW

FIRE PROTECTION SPRINKLER FITTING

Sections

18.270.010	Definitions.
18.270.020	Certificate required—Penalties.
18.270.030	Examination.
18.270.040	Application requirements—Certificate without examination.
18.270.050	Certificate expiration and renewal.
18.270.060	Fees—Deposit and use.
18.270.070	Violations—Investigations.
18.270.080	Appeals.
18.270.090	Suspension.
18.270.900	Administration of chapter.
18.270.901	Effective date—2007 c 435.

18.270.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certificate" means a certificate of competency granted by the director under the terms of this chapter, and is valid within the state and all political subdivisions, and meets all of the requirements for license or certification that may be applied by the political subdivisions.

(2) "Contractor" means any person, corporation, or other entity, licensed under chapter 18.160 RCW, which performs any work covered by the provisions of this chapter.

(3) "Director" means the state director of fire protection.

(4) "Fire protection sprinkler fitting" means installing, altering, and repairing sprinkler, standpipe, hose, or other hazard systems for fire protection purposes that are an assembly of piping or conduit beginning at the connection to the primary water supply within a building, sprinkler tank heaters, air lines, and all tanks and pumps attached thereto.

(5) "Journey-level sprinkler fitter" means any person who has been issued a certificate by the director as provided by this chapter.

(6) "NFPA 13-D" means the standard in use by the national fire protection association for the installation of fire protection sprinkler systems in one and two-family dwellings and manufactured homes whenever the provisions of this chapter are applied.

(7) "NFPA 13-R" means the standard in use by the national fire protection association for the installation of fire protection sprinkler systems in residential dwellings up to and including four stories in height whenever the provisions of this chapter are applied.

(8) "Person" means a natural person, including an owner, manager, partner, officer, employee, or occupant.

(9) "Residential sprinkler fitter" means anyone who has been issued a certificate by the director limited to installation, maintenance, and repair of the fire protection sprinkler system of residential occupancies as defined by NFPA 13-D and NFPA 13-R.

(10) "Trainee" means anyone who has been issued a training certificate by the director who is learning the fire protection sprinkler fitting trade under the direct supervision of a journey-level sprinkler fitter or residential sprinkler fitter. [2007 c 435 § 1.]

18.270.020 Certificate required—Penalties. (1) No person may engage in the trade of fire protection sprinkler fitting without having a valid journey-level sprinkler fitter certificate, residential sprinkler fitter certificate, training certificate, or temporary certificate, with the exception of a certified plumber installing a residential fire protection sprinkler system connected to potable water requiring a plumbing certificate.

(2) No contractor may employ a person in violation of subsection (1) of this section to perform fire protection sprinkler fitting work.

(3) A person found by the director to have committed an infraction under this chapter shall be assessed a monetary penalty as set by rule.

(4) Each day in which a person engages in the trade of fire protection sprinkler fitting in violation of subsection (1) of this section or employs a person in violation of subsection (2) of this section is considered a separate infraction. [2007 c 435 § 3.]

18.270.030 Examination. The director shall adopt a written examination to be administered to applicants for certificates. [2007 c 435 § 4.]

18.270.040 Application requirements—Certificate without examination. (1) Every applicant for a certificate shall pay an examination fee and satisfactorily pass an examination as provided by rule.

(2) Every applicant for a certificate shall apply to the director on an application form provided by the director and pay the application fee as provided by rule.

(3)(a) Every applicant for a journey-level sprinkler fitter certificate shall provide evidence to the director on a form provided by the director of at least eight thousand hours of trade-related fire protection sprinkler fitting experience.

(b) Every applicant for a residential sprinkler fitter certificate shall provide evidence to the director on a form provided by the director of at least four thousand hours of trade-related fire protection sprinkler fitting or residential sprinkler fitting experience.

(4) Every applicant for a training certificate shall provide evidence to the director on a form provided by the director of trade-related employment by a contractor.

(5)(a) The director shall grant a journey-level sprinkler fitter certificate without examination to any applicant who, during the ninety days following January 1, 2009, submits an application for such certification and evidence of his or her employment as a journey-level sprinkler fitter for a period of not less than eight thousand hours.

(b) The director shall grant a residential sprinkler fitter certificate without examination to any applicant who, during the ninety days following January 1, 2009, submits an application for such certification and evidence of his or her employment as a journey-level sprinkler fitter or a residential sprinkler fitter for a period of not less than four thousand hours.

(6) The director may grant a certificate without examination to any applicant who is a journey-level sprinkler fitter or residential sprinkler fitter from a state whose requirements for certification are at least substantially equivalent to the requirements of this state, and which extends the same privileges of reciprocity to journey-level sprinkler fitters or residential sprinkler fitters from this state. [2007 c 435 § 5.]

18.270.050 Certificate expiration and renewal. (1) A certificate expires on December 31st.

(2) The certificate shall be renewed every other year.

(3) Before the expiration date of the certificate, every applicant shall reapply to the director on an application form provided by the director and pay the application fee as provided by rule.

(4) If a certificate is not renewed before its expiration date, an applicant must:

(a) Apply to the director on an application form provided by the director;

(b) Pay an application fee to the director as provided by rule;

(c) Pay an examination fee as provided by rule; and

(d) Successfully pass the written examination required by this chapter. [2007 c 435 § 6.]

18.270.060 Fees—Deposit and use. All receipts from fees and charges or from the money generated by the rules adopted under this chapter shall be deposited into the fire protection contractor license fund created in RCW 18.160.050 and used for the purposes authorized under this chapter. [2007 c 435 § 7.]

18.270.070 Violations—Investigations. An authorized representative of the director may investigate alleged violations of this chapter. Upon request of an authorized representative, a person performing fire protection sprinkler fitting or residential sprinkler fitting work must produce evidence of a certificate issued by the director in accordance with this chapter. Failure to produce such evidence is an infraction as provided by RCW 18.270.020. [2007 c 435 § 8.]

18.270.080 Appeals. A person wishing to appeal a determination of infraction under this chapter must file an appeal within twenty days of the date of the notice of infraction in accordance with chapter 34.05 RCW. [2007 c 435 § 9.]

18.270.090 Suspension. The director shall immediately suspend any certificate issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [2007 c 435 § 10.]

18.270.900 Administration of chapter. (1) This chapter shall be administered by the director.

(2) The director may adopt rules necessary for the administration of this chapter. [2007 c 435 § 2.]

18.270.901 Effective date—2007 c 435. This act takes effect January 1, 2009. [2007 c 435 § 12.]

Chapter 18.280 RCW HOME INSPECTORS

Sections

18.280.010	Definitions.
18.280.020	Licensure required.
18.280.030	Duties of a licensed home inspector.
18.280.040	Home inspector advisory licensing board.
18.280.050	Director's authority.
18.280.060	Board's authority.
18.280.070	Qualifications for licensure.
18.280.080	Written exams.
18.280.090	License length and renewal.
18.280.100	Advertising.
18.280.110	License renewal—Continuing education requirements.
18.280.120	Written reports—Limitation on work.
18.280.130	Suspension of license—Appeal.
18.280.140	Civil infractions.
18.280.150	Uniform regulation of business and professions act.
18.280.160	Relief by injunction—Director and board immunity.
18.280.170	Exemption from licensing.
18.280.180	Reciprocity.
18.280.190	Structural pest inspector.
18.280.200	Military training or experience.

18.280.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the home inspector advisory licensing board.

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

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

(4) "Entity" or "entities" means educational groups or organizations, national organizations or associations, or a national test organization.

(5) "Home inspection" means a professional examination of the current condition of a house.

(6) "Home inspector" means a person who carries out a noninvasive examination of the condition of a home, often in

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connection with the sale of that home, using special training and education to carry out the inspection.

(7) "Report" means a written report prepared and issued after a home inspection.

(8) "Wood destroying organism" means insects or fungi that consume, excavate, develop in, or otherwise modify the integrity of wood or wood products. "Wood destroying organism" includes but is not limited to carpenter ants, moisture ants, subterranean termites, dampwood termites, beetles in the family Anobiidae, and wood decay fungi, known as wood rot. [2008 c 119 § 1.]

18.280.020 Licensure required. (1) Beginning September 1, 2009, a person shall not engage in or conduct, or advertise or hold himself or herself out as engaging in or conducting, the business of or acting in the capacity of a home inspector within this state without first obtaining a license as provided in this chapter.

(2) Any person performing the duties of a home inspector on June 12, 2008, has until July 1, 2010, to meet the licensing requirements of this chapter. However, if a person performing the duties of a home inspector on June 12, 2008, has proof that he or she has worked as a home inspector for at least two years and has conducted at least one hundred home inspections, he or she may apply to the board before September 1, 2009, for licensure without meeting the instruction and training requirements of this chapter.

(3) The director may begin issuing licenses under this section beginning on July 1, 2009. [2008 c 119 § 2.]

18.280.030 Duties of a licensed home inspector. A person licensed under this chapter is responsible for performing a visual and noninvasive inspection of the following readily accessible systems and components of a home and reporting on the general condition of those systems and components at the time of the inspection in his or her written report: The roof, foundation, exterior, heating system, air-conditioning system, structure, plumbing and electrical systems, and other aspects of the home as may be identified by the board. The inspection must include looking for certain fire and safety hazards as defined by the board. The standards of practice to be developed by the board will be used as the minimum standards for an inspection. The duties of the home inspector with regard to wood destroying organisms are provided in RCW 18.280.190. [2008 c 119 § 3.]

18.280.040 Home inspector advisory licensing board.

(1) The state home inspector advisory licensing board is created. The board consists of seven members appointed by the director, who shall advise the director concerning the administration of this chapter. Of the appointments to this board, six must be actively engaged as home inspectors immediately prior to their appointment to the board, and one must be currently teaching in a home inspector education program. Insofar as possible, the composition of the appointed home inspector members of the board must be generally representative of the geographic distribution of home inspectors licensed under this chapter. No more than two board members may be members of a particular national home inspector association or organization.

(2) A home inspector must have the following qualifications to be appointed to the board:

(a) Actively engaged as a home inspector in the state of Washington for five years;

(b) Licensed as a home inspector under this chapter, except for initial appointments; and

(c) Performed a minimum of five hundred home inspections in the state of Washington.

(3) Members of the board are appointed for three-year terms. Terms must be staggered so that not more than two appointments are scheduled to be made in any calendar year. Members hold office until the expiration of the terms for which they were appointed. The director may remove a board member for just cause. The director may appoint a new member to fill a vacancy on the board for the remainder of the unexpired term. All board members are limited to two consecutive terms.

(4) Each board member is entitled to compensation for each day spent conducting official business and to reimbursement for travel expenses in accordance with RCW 43.03.240, 43.03.050, and 43.03.060. [2011 1st sp.s. c 21 § 43; 2008 c 119 § 4.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

18.280.050 Director's authority. The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules approved by the board as deemed necessary to carry out this chapter;

(2) To administer licensing examinations approved by the board and to adopt or recognize examinations prepared by other entities as approved by the board;

(3) To adopt standards of professional conduct, practice, and ethics as approved by the board; and

(4) To adopt fees as provided in RCW 43.24.086. [2008 c 119 § 5.]

18.280.060 Board's authority. The board has the following authority in administering this chapter:

(1) To establish rules, including board organization and assignment of terms, and meeting frequency and timing, for adoption by the director;

(2) To establish the minimum qualifications for licensing applicants as provided in this chapter;

(3) To approve the method of administration of examinations required by this chapter or by rule as established by the director;

(4) To approve the content of or recognition of examinations prepared by other entities for adoption by the director;

(5) To set the time and place of examinations with the approval of the director; and

(6) To establish and review standards of professional conduct, practice, and ethics for adoption by the director. These standards must address what constitutes certain fire and safety hazards as used in RCW 18.280.030. [2008 c 119 § 6.]

18.280.070 Qualifications for licensure. In order to become licensed as a home inspector, an applicant must submit the following to the department:

(1) An application on a form developed by the department;

(2) Proof of a minimum of one hundred twenty hours of classroom instruction approved by the board;

(3) Proof of up to forty hours of field training supervised by a licensed home inspector;

(4) Evidence of successful passage of the written exam as required in RCW 18.280.080; and

(5) The fee in the amount set by the department. [2008 c 119 § 7.]

18.280.080 Written exams. Applicants for licensure must pass an exam that is psychometrically valid, reliable, and legally defensible by the state. The exam is to be developed, maintained, and administered by the department. The board shall recommend to the director whether to use an exam that is prepared by a national entity. If an exam prepared by a national entity is used, a section specific to Washington shall be developed by the director and included as part of the entire exam. [2008 c 119 § 8.]

18.280.090 License length and renewal. Licenses are issued for a term of two years and expire on the applicant's second birthday following issuance of the license. [2008 c 119 § 9.]

18.280.100 Advertising. The term "licensed home inspector" and the license number of the inspector must appear on all advertising, correspondence, and documents incidental to a home inspection. However, businesses and organizations that conduct national or interstate general marketing and advertising campaigns may omit the license number of the inspector in advertising so long as it is included on all documents incidental to a home inspection. [2008 c 119 § 10.]

18.280.110 License renewal—Continuing education requirements. (1) As a condition of renewing a license under this chapter, a licensed home inspector shall present satisfactory evidence to the board of having completed the continuing education requirements provided for in this section.

(2) Each applicant for license renewal shall complete at least twenty-four hours of instruction in courses approved by the board every two years. [2008 c 119 § 11.]

18.280.120 Written reports—Limitation on work. (1) A licensed home inspector shall provide a written report of the home inspection to each person for whom the inspector performs a home inspection within a time period set by the board in rule. The issues to be addressed in the report shall be set by the board in rule.

(2) A licensed home inspector, or other licensed home inspectors or employees who work for the same company or for any company in which the home inspector has a financial interest, shall not, from the time of the inspection until one year from the date of the report, perform any work other than home inspection-related consultation on the home upon which he or she has performed a home inspection. [2008 c 119 § 12.]

18.280.130 Suspension of license—Appeal. (1) The director shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a child support order. If the person has continued to meet all other requirements for a license under this chapter during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the child support order. The procedure in RCW 74.20A.320 is the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order, and suspension of a license under this subsection, and satisfies the requirements of RCW 34.05.422.

(2) The director, with the assistance of the board, shall establish by rule under what circumstances a home inspector license may be suspended or revoked. These circumstances shall be based upon accepted industry standards and the board's cumulative experience.

(3) Any person aggrieved by a decision of the director under this section may appeal the decision as provided in chapter 34.05 RCW. The adjudicative proceeding shall be conducted under chapter 34.05 RCW by an administrative law judge appointed pursuant to RCW 34.12.030. [2008 c 119 § 13.]

18.280.140 Civil infractions. The department has the authority to issue civil infractions under chapter 7.80 RCW in the following instances:

- (1) Conducting or offering to conduct a home inspection without being licensed in accordance with this chapter;
- (2) Presenting or attempting to use as his or her own the home inspector license of another;
- (3) Giving any false or forged evidence of any kind to the director or his or her authorized representative in obtaining a license;
- (4) Falsely impersonating any other licensee; or
- (5) Attempting to use an expired or revoked license.

All fines and penalties collected or assessed by a court because of a violation of this section must be remitted to the department to be deposited into the business and professions account created in RCW 43.24.150. [2008 c 119 § 14.]

18.280.150 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2008 c 119 § 15.]

18.280.160 Relief by injunction—Director and board immunity. The director is authorized to apply for relief by injunction without bond, to restrain a person from the commission of any act that is prohibited under RCW 18.280.140. In such a proceeding, it is not necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from continued violation. The director, individuals acting on the director's behalf, and members of the board are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their

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duties in the administration and enforcement of this chapter. [2008 c 119 § 16.]

18.280.170 Exemption from licensing. The following persons are exempt from the licensing requirements of this chapter when acting within the scope of their license or profession:

- (1) Engineers;
- (2) Architects;
- (3) Electricians licensed under chapter 19.28 RCW;
- (4) Plumbers licensed under chapter 18.106 RCW;
- (5) Pesticide operators licensed under chapter 17.21 RCW;
- (6) Structural pest inspectors licensed under chapter 15.58 RCW; or
- (7) Certified real estate appraisers licensed under chapter 18.140 RCW. [2008 c 119 § 17.]

18.280.180 Reciprocity. Persons licensed as home inspectors in other states may become licensed as home inspectors under this chapter as long as the other state has licensing requirements that meet or exceed those required under this chapter and the person seeking a license under this chapter passes the Washington portion of the exam under RCW 18.280.080. [2008 c 119 § 18.]

18.280.190 Structural pest inspector. Any person licensed under this chapter who is not also licensed as a pest inspector under chapter 15.58 RCW shall only refer in his or her report to rot or conducive conditions for wood destroying organisms and shall refer the identification of or damage by wood destroying insects to a structural pest inspector licensed under chapter 15.58 RCW. [2008 c 119 § 19.]

18.280.200 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 15.]

Chapter 18.290 RCW GENETIC COUNSELORS

Sections

18.290.010	Definitions.
18.290.020	Secretary—Authority.
18.290.030	Construction.
18.290.040	Licensing requirements.
18.290.050	Examinations.
18.290.060	Applications for licensing.
18.290.070	License renewals.
18.290.080	Provisional licenses.
18.290.090	Reciprocity.
18.290.100	Prohibited practices.
18.290.110	Application of uniform disciplinary act.
18.290.120	Down syndrome—Parent information.
18.290.900	Effective date—2009 c 302.
18.290.901	Implementation—2009 c 302.

18.290.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the advisory committee on genetic counseling established in *section 5 of this act.

(2) "Collaborative agreement" means a written document that memorializes a relationship between a genetic counselor and a physician licensed under chapter 18.71 RCW or an osteopathic physician licensed under chapter 18.57 RCW, who is board certified in medical genetics or who is board certified in a specialty relevant to the practice of the genetic counselor that authorizes a genetic counselor to perform the functions specified in subsection (5)(d) of this section as applied to the practice of genetic counseling.

(3) "Department" means the department of health.

(4) "Genetic counselor" means an individual who is licensed to engage in the practice of genetic counseling under this chapter.

(5) "Practice of genetic counseling" means a communication process, conducted by one or more appropriately trained individuals that includes:

(a) Estimating the likelihood of occurrence or recurrence of a birth defect or of any potentially inherited or genetically influenced condition. This assessment may involve:

(i) Obtaining and analyzing a complete health history of the person and family;

(ii) Reviewing pertinent medical records;

(iii) Evaluating the risks from exposure to possible mutagens or teratogens; and

(iv) Providing recommendations for genetic testing or other evaluations to diagnose a condition or determine the carrier status of one or more family members;

(b) Helping the individual, family, or health care provider:

(i) Appreciate the medical and psychosocial implications of a disorder, including its features, variability, usual course, and management options;

(ii) Learn how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;

(iii) Understand available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition;

(iv) Understand genetic or prenatal tests, coordinate testing for inherited disorders, and interpret complex genetic test results;

(c) Facilitating an individual's or family's:

(i) Exploration of the perception of risk and burden associated with the disorder;

(ii) Decision making regarding testing or medical interventions consistent with their beliefs, goals, needs, resources, and cultural, ethical, and moral views; and

(iii) Adjustment and adaptation to the condition or their genetic risk by addressing needs for psychosocial and medical support; and

(d) Pursuant to a collaborative agreement:

(i) Ordering genetic tests or other evaluations to diagnose a condition or determine the carrier status of one or more family members, including testing for inherited disorders; and

(ii) Selecting the most appropriate, accurate, and cost-effective methods of diagnosis.

(6) "Secretary" means the secretary of health. [2009 c 302 § 1.]

*Reviser's note: Section 5, chapter 302, Laws of 2009 was vetoed by the governor.

18.290.020 Secretary—Authority. In addition to any other authority, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter;

(2) Establish all licensing, examination, and renewal fees in accordance with RCW 43.70.110 and 43.70.250;

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

(4) Issue licenses to applicants who have met the education, training, and examination requirements for obtaining a license and to deny a license to applicants who do not meet the requirements;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement 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 obtaining a license;

(7) Establish practice parameters consistent with the practice of genetic counseling as defined in RCW 18.290.010 and considering developments in the field, with the advice and recommendations of the *advisory committee;

(8) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of examinations for obtaining a license;

(9) Determine which states have licensing requirements equivalent to those of this state, and issue licenses to applicants licensed in those states without examination;

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

(11) Adopt rules implementing a continuing competency program;

(12) Maintain the official department record of all applicants and license holders; and

(13) Establish by rule the procedures for an appeal of an examination failure. [2009 c 302 § 2.]

*Reviser's note: Section 5 of this act, which established the advisory committee, was vetoed by the governor.

18.290.030 Construction. Nothing in this chapter shall be construed to prohibit or restrict:

(1) An individual who holds a credential issued by this state, other than as a genetic counselor, to engage in the practice of that occupation or profession without obtaining an additional credential from the state. The individual may not use the title genetic counselor unless licensed as such in this state;

(2) The practice of genetic counseling by a person who is 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 of genetic counseling by a person who is a regular student in an educational program approved by the secretary, 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; or

(4) The practice of genetic counseling by a person who is practicing under the general supervision of a genetic counselor in a genetic counseling training site while gathering log-book cases for the purpose of meeting licensing requirements. [2009 c 302 § 3.]

18.290.040 Licensing requirements. The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements:

(1) Graduation from a master's or doctorate program in genetic counseling or medical genetics approved by the secretary;

(2) Successful completion of any clinical experience requirements established by the secretary; and

(3) Successful completion of an examination administered or approved by the secretary. [2009 c 302 § 4.]

18.290.050 Examinations. (1) The date and location of examinations must be established by the secretary. Applicants who have been found by the secretary to meet the other requirements for obtaining a license must be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.

(2) The secretary or the secretary's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. The examinations must 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 secretary has made and published the decisions. All examinations must 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 two subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require remedial education before the person may take future examinations.

(5) The secretary may approve an examination prepared or administered by a private organization that certifies and recertifies genetic counselors, or an association of licensing agencies, for use by an applicant in meeting the credentialing requirements. [2009 c 302 § 6.]

18.290.060 Applications for licensing. Applications for licensing must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for licensing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee must accompany the application. [2009 c 302 § 7.]

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18.290.070 License renewals. The secretary shall establish by rule the requirements and fees for renewal of a license. Failure to renew the license invalidates the license and all privileges granted by the license. If a license has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the secretary by completing continuing competency requirements or meeting other standards determined by the secretary. [2009 c 302 § 8.]

18.290.080 Provisional licenses. The secretary may grant a provisional license to a person who has met all of the requirements for obtaining a license except for the successful completion of an examination. A provisional license must be renewed annually. The secretary may grant a provisional license to a person up to four times. A provisional license holder may only practice genetic counseling under the supervision of either a licensed genetic counselor, a physician licensed under chapter 18.71 RCW, or osteopathic physician licensed under chapter 18.57 RCW, with a current certification in clinical genetics issued by an organization approved by the secretary. [2009 c 302 § 9.]

18.290.090 Reciprocity. An applicant holding a license in another state may be licensed to practice in this state without examination if the secretary determines that the licensing standards of the other state are substantially equivalent to the licensing standards of this state. [2009 c 302 § 10.]

18.290.100 Prohibited practices. (1) Except as provided in RCW 18.290.030, no person shall engage in the practice of genetic counseling unless he or she is licensed, or provisionally licensed, under this chapter.

(2) A person not licensed with the secretary to practice genetic counseling may not represent himself or herself as a "licensed genetic counselor or a genetic counselor." [2009 c 302 § 11.]

18.290.110 Application of uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of a license, and the discipline of persons licensed under this chapter. The secretary shall be the disciplining authority under this chapter. [2009 c 302 § 12.]

18.290.120 Down syndrome—Parent information. A genetic counselor who provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under RCW 43.70.738 at the time the genetic counselor provides the parent with the Down syndrome diagnosis. [2016 c 70 § 8.]

18.290.900 Effective date—2009 c 302. This act takes effect August 1, 2010. [2009 c 302 § 15.]

18.290.901 Implementation—2009 c 302. The secretary of health may adopt such rules as authorized under RCW 18.290.020 to ensure that chapter 302, Laws of 2009 is implemented on its effective date. [2009 c 302 § 16.]

Chapter 18.300 RCW

BODY ART, BODY PIERCING, AND TATTOOING

Sections

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18.300.140	Application of consumer protection act.
18.300.150	Uniform regulation of business and professions act.
18.300.160	Military training or experience.
18.300.900	Short title—2009 c 412.
18.300.901	Effective date—2009 c 412 §§ 1-21.
18.300.902	Implementation—2009 c 412.

18.300.005 Finding. The legislature finds and declares that the practices of body piercing, tattooing, and other forms of body art involve an invasive procedure with the use of needles, sharps, instruments, and jewelry. These practices may be dangerous when improper sterilization techniques are used, presenting a risk of infecting the client with blood-borne pathogens including, but not limited to, HIV, hepatitis B, and hepatitis C. It is in the interests of the public health, safety, and welfare to establish requirements in the commercial practice of these activities in this state. [2009 c 412 § 1.]

18.300.010 Definitions. The definitions in this section apply throughout this chapter and RCW 5.40.050 and 70.54.340 unless the context clearly requires otherwise.

(1) "Body art" means the practice of invasive cosmetic adornment including the use of branding and scarification. "Body art" also includes the intentional production of scars upon the body. "Body art" does not include any health-related procedures performed by licensed health care practitioners under their scope of practice.

(2) "Body piercing" means the process of penetrating the skin or mucous membrane to insert an object, including jewelry, for cosmetic purposes. "Body piercing" also includes any scar tissue resulting from or relating to the piercing. "Body piercing" does not include the use of stud and clasp piercing systems to pierce the earlobe in accordance with the manufacturer's directions and applicable United States food and drug administration requirements. "Body piercing" does not include any health-related procedures performed by licensed health care practitioners under their scope of practice, nor does anything in chapter 412, Laws of 2009 authorize a person registered to engage in the business of body piercing to implant or embed foreign objects into the human body or otherwise engage in the practice of medicine.

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

(4) "Individual license" means a body art, body piercing, or tattoo practitioner license issued under this chapter.

(5) "Location license" means a license issued under this chapter for a shop or business.

(6) "Shop or business" means a body art, body piercing, or tattooing shop or business.

(7) "Tattoo artist" means a person who pierces or punctures the human skin with a needle or other instrument for the purpose of implanting an indelible mark, or pigment, into the skin for a fee.

(8) "Tattooing" means to pierce or puncture the human skin with a needle or other instrument for the purpose of implanting an indelible mark, or pigment, into the skin. [2009 c 412 § 2.]

18.300.020 Authority of director. In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director has the following powers and duties:

(1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;

(2) To adopt rules necessary to implement this chapter;

(3) To prepare and administer or approve the preparation and administration of licensing;

(4) To establish minimum safety and sanitation standards for practitioners of body art, body piercing, or tattooing as determined by the department of health;

(5) To maintain the official department record of applicants and licensees;

(6) To set license expiration dates and renewal periods for all licenses consistent with this chapter;

(7) To ensure that all informational notices produced and mailed by the department regarding statutory and regulatory changes affecting any particular class of licensees are mailed to each licensee in good standing in the affected class whose mailing address on record with the department has not resulted in mail being returned as undeliverable for any reason; and

(8) To make information available to the department of revenue to assist in collecting taxes from persons and businesses required to be licensed under this chapter. [2009 c 412 § 3.]

18.300.030 License required to be in good standing.

(1) It is unlawful for any person to engage in a practice listed in subsection (2) of this section unless the person has a license in good standing as required by this chapter. A license issued under this chapter is considered to be "in good standing" except when:

(a) The license has expired or has been canceled and has not been renewed in accordance with RCW 18.300.050;

(b) The license has been denied, revoked, or suspended under RCW 18.300.110 or 18.300.130, and has not been reinstated; or

(c) The license is held by a person who has not fully complied with an order of the director issued under RCW 18.300.110 requiring the licensee to pay restitution or a fine, or to acquire additional training.

(2) The director may take action under RCW 18.235.150 and 18.235.160 against any person who does any of the following without first obtaining, and maintaining in good standing, the license required by this chapter:

(a) Engages in the practice of body art, body piercing, or tattooing; or

(b) Operates a shop or business. [2009 c 412 § 4.]

18.300.040 Requirements for issuance of license.

Upon completion of an application approved by the department and payment of the proper fee, the director shall issue the appropriate location license to any person who completes an application approved by the department, provides certification of insurance, and provides payment of the proper fee. [2009 c 412 § 5.]

18.300.050 Licensing fees—Penalties for late renewal—Reinstatement—Duplicates.

(1) The director shall issue the appropriate license to any applicant who meets the requirements as outlined in this chapter. The director has the authority to set appropriate licensing fees for body art, body piercing, and tattooing shops and businesses and body art, body piercing, and tattooing individual practitioners. Licensing fees for individual practitioners must be set in an amount less than licensing fees for shops and businesses.

(2) Failure to renew a license by its expiration date subjects the holder to a penalty fee and payment of each year's renewal fee, at the current rate.

(3) A person whose license has not been renewed within one year after its expiration date must have his or her license canceled and must be required to submit an application, pay the license fee, meet current licensing requirements, and pass any applicable examination or examinations, in addition to the other requirements of this chapter, before the license may be reinstated.

(4) Nothing in this section authorizes a person whose license has expired to engage in a practice prohibited under RCW 18.300.030 until the license is renewed or reinstated.

(5) Upon request and payment of an additional fee to be established by rule by the director, the director shall issue a duplicate license to an applicant. [2009 c 412 § 6.]

18.300.060 Expiration of licenses. (1) Subject to subsection (2) of this section, licenses issued under this chapter expire as follows:

(a) A body art, body piercing, or tattooing shop or business location license expires one year from issuance or when the insurance required by RCW 18.300.070(1)(g) expires, whichever occurs first; and

(b) Body art, body piercing, or tattooing practitioner individual licenses expire one year from issuance.

(2) The director may provide for expiration dates other than those set forth in subsection (1) of this section for the purpose of establishing staggered renewal periods. [2009 c 412 § 7.]

18.300.070 Shop or business requirements—Director authority—Inspections. (1) A body art, body piercing, or tattooing shop or business shall meet the following minimum requirements:

(a) Maintain an outside entrance separate from any rooms used for sleeping or residential purposes;

(b) Provide and maintain for the use of its customers adequate toilet facilities located within or adjacent to the shop or business;

(c) Any room used wholly or in part as a shop or business may not be used for residential purposes, except that toilet

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facilities may be used for both residential and business purposes;

(d) Meet the zoning requirements of the county, city, or town, as appropriate;

(e) Provide for safe storage and labeling of equipment and substances used in the practices under this chapter;

(f) Meet all applicable local and state fire codes; and

(g) Certify that the shop or business is covered by a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability.

(2) The director may by rule determine other requirements that are necessary for safety and sanitation of shops or businesses. The director may consult with the state board of health and the department of labor and industries in establishing minimum shop and business safety requirements.

(3) Upon receipt of a written complaint that a shop or business has violated any provisions of this chapter, chapter 18.235 RCW, or the rules adopted under either chapter, or at least once every two years for an existing shop or business, the director or the director's designee shall inspect each shop or business. If the director determines that any shop or business is not in compliance with this chapter, the director shall send written notice to the shop or business. A shop or business which fails to correct the conditions to the satisfaction of the director within a reasonable time is, upon due notice, subject to the penalties imposed by the director under RCW 18.235.110. The director may enter any shop or business during business hours for the purpose of inspection. The director may contract with health authorities of local governments to conduct the inspections under this subsection.

(4) A shop or business shall obtain a certificate of registration from the department of revenue.

(5) Shop or business location licenses issued by the department must be posted in the shop or business's reception area.

(6) Body art, body piercing, and tattooing practitioner individual licenses issued by the department must be posted at the licensed person's work station. [2009 c 412 § 8.]

18.300.080 Notice to consumers. The director shall prepare and provide to all licensed shops or businesses a notice to consumers. At a minimum, the notice must state that body art, body piercing, and tattooing shops or businesses are required to be licensed, that shops or businesses are required to maintain minimum safety and sanitation standards, that customer complaints regarding shops or businesses may be reported to the department, and a telephone number and address where complaints may be made. [2009 c 412 § 9.]

18.300.090 Violation—Shop or business license and individual license required. It is a violation of this chapter for any person to engage in the commercial practice of body art, body piercing, or tattooing except in a licensed shop or business with the appropriate individual body art, body piercing, or tattooing license. [2009 c 412 § 10.]

18.300.095 License suspension—Electronic benefit cards. The department of licensing shall immediately suspend any license under this chapter if the department receives information that the license holder has not complied with

RCW 74.08.580(2). If the license holder has remained otherwise eligible to be licensed, the department may reinstate the suspended license when the holder has complied with RCW 74.08.580(2). [2011 1st sp.s. c 42 § 17.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

18.300.100 Disciplinary action—Grounds. In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action against any applicant or licensee under this chapter if the licensee or applicant:

- (1) Has been found to have violated any provisions of chapter 19.86 RCW;
- (2) Has engaged in a practice prohibited under RCW 18.300.030 without first obtaining, and maintaining in good standing, the license required by this chapter;
- (3) Has failed to display licenses required in this chapter; or
- (4) Has violated any provision of this chapter or any rule adopted under it. [2009 c 412 § 11.]

18.300.110 Penalties for violation. If, following a hearing, the director finds that any person or an applicant or licensee has violated any provision of this chapter or any rule adopted under it, the director may impose one or more of the following penalties:

- (1) Denial of a license or renewal;
- (2) Revocation or suspension of a license;
- (3) A fine of not more than five hundred dollars per violation;
- (4) Issuance of a reprimand or letter of censure;
- (5) Placement of the licensee on probation for a fixed period of time;
- (6) Restriction of the licensee's authorized scope of practice;
- (7) Requiring the licensee to make restitution or a refund as determined by the director to any individual injured by the violation; or
- (8) Requiring the licensee to obtain additional training or instruction. [2009 c 412 § 12.]

18.300.120 Appeal—Procedure. Any person aggrieved by the refusal of the director to issue any license provided for in this chapter, or to renew the same, or by the revocation or suspension of any license issued under this chapter or by the application of any penalty under RCW 18.300.110 has the right to appeal the decision of the director to the superior court of the county in which the person maintains his or her place of business. The appeal must be filed within thirty days of the director's decision. [2009 c 412 § 13.]

18.300.130 License suspension—Noncompliance with support order—Reissuance. The department shall immediately suspend the license of a person who has been certified under *RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspen-

sion, reissuance of the license is automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [2009 c 412 § 14.]

***Reviser's note:** RCW 74.20A.320 was amended by 2009 c 408 § 1, deleting language referring to certification. RCW 74.20A.324 appears to be the more appropriate reference.

18.300.140 Application of consumer protection act. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [2009 c 412 § 15.]

18.300.150 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2009 c 412 § 16.]

18.300.160 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 16.]

18.300.900 Short title—2009 c 412. This act shall be known and may be cited as the "Washington body art, body piercing, and tattooing act." [2009 c 412 § 17.]

18.300.901 Effective date—2009 c 412 §§ 1-21. Sections 1 through 21 of this act take effect July 1, 2010. [2009 c 412 § 25.]

18.300.902 Implementation—2009 c 412. The director of licensing and the department of health, beginning on July 26, 2009, may take such steps as are necessary to ensure that chapter 412, Laws of 2009 is implemented July 1, 2010. [2009 c 412 § 23.]

Chapter 18.310 RCW APPRAISAL MANAGEMENT COMPANIES

Sections

18.310.010	Definitions.
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18.310.030	Immunity.
18.310.040	Applications—Original and renewals—Surety bonds.
18.310.050	Out-of-state companies—Consent for service of process.
18.310.060	Licensure—Requirements.
18.310.070	Background investigations.
18.310.080	Licensure—Required use of name and license number.
18.310.090	Owner requirements.
18.310.100	Controlling person requirements.
18.310.110	Appraiser requirements.
18.310.120	Exemptions.
18.310.130	Recordkeeping.
18.310.140	Disputes between appraisal management company and appraiser.
18.310.150	Disciplinary actions—Grounds.
18.310.160	Appraisal management company account.

18.310.170 Uniform regulation of business and professions act.
 18.310.901 Effective date—2010 c 179.

18.310.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of pertaining to appraising and related functions.

(2) "Appraisal management company" means an entity that performs appraisal management services, regardless of the use of the term appraisal management company, mortgage technology provider, lender processing services, lender services, loan processor, mortgage services, real estate closing services provider, settlement services provider, or vendor management company, or any other term.

(3) "Appraisal management services" means to perform any or all of the following functions on behalf of a lender, financial institution, mortgage broker, loan originator, or any other person:

- (a) Administer an appraiser panel;
- (b) Recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
- (c) Receive an order for an appraisal from one person, or entity, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;
- (d) Track and determine the status of appraisal orders;
- (e) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and
- (f) Provide a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal.

(4) "Appraisal review" or "appraisal review services" means developing and communicating an opinion about the quality of another appraiser's work that was performed, or assignment results that were developed, as part of an appraisal assignment.

(5) "Appraiser" means a person who is licensed or certified under chapter 18.140 RCW or under similar laws of another state.

(6) "Appraiser panel" means a network of appraisers who are independent contractors of an appraisal management company that have:

(a) Independently applied to or responded to an invitation, request, or solicitation from an appraisal management company to perform appraisals for persons, or entities, that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company; and

(b) Been selected, and approved, by an appraisal management company to perform appraisals for a person, or entity, that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.

(7) "Controlling person" means:

(a) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals;

(c) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company;

(d) Any person who controls a partnership, company, association, or corporation through one or more intermediaries, alone or in concert with others, or a ten percent or greater interest in a partnership, company, association, or corporation; or

(e) Any person who controls a limited liability company or is the owner of a sole proprietorship.

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

(9) "Director" means the director of the department of licensing. [2010 c 179 § 1.]

18.310.020 Powers and duties of director. The director shall:

- (1) Adopt rules to implement this chapter;
- (2) Establish appropriate administrative procedures for the processing of the applications;
- (3) Issue licenses to qualified companies under the provisions of this chapter;
- (4) Maintain a roster of the names and addresses of companies licensed under this chapter;
- (5) Employ professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;
- (6) Establish forms necessary to administer this chapter;
- (7) Oversee the performance of any background investigations;
- (8) Initiate and oversee investigations and any audits;
- (9) Establish grounds for disciplinary actions;
- (10) Adopt fees under RCW 43.24.086; and
- (11) Do all other things necessary to carry out the provisions of this chapter and comply with the requirements of any pertinent federal laws pertaining to appraisal management companies. [2010 c 179 § 2.]

18.310.030 Immunity. The director or individuals acting on behalf of the director are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct. [2010 c 179 § 3.]

18.310.040 Applications—Original and renewals—Surety bonds. (1) Applications for licensure must be made to the department on forms approved by the director. A license is valid for two years and must be renewed on or before the expiration date. Applications for original and renewal licenses must include a statement confirming that the company must comply with applicable rules and that the company understands the penalties for misconduct.

(2) The appropriate fees must accompany all applications for original licensure and renewal.

(3)(a) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as the surety may not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of one hundred thousand dollars. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

(b) If the director determines that surety bonds are not readily available to appraisal management companies, the director may accept a cash bond or other security in lieu of the surety bond required by this section. The security accepted in lieu of a surety bond must be in an amount equal to the penal sum of the required bond. All obligations and remedies relating to surety bonds apply to deposits and other security filed in lieu of surety bonds. [2013 c 90 § 1; 2010 c 179 § 4.]

18.310.050 Out-of-state companies—Consent for service of process. Every company seeking licensure whose headquarters is not based in the state of Washington shall submit, with the application for licensure, an irrevocable consent that service of process upon the controlling person or persons may be made by service on the director if, in an action against the entity in a Washington state court arising out of the entity's activities as an appraisal management company, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the company. [2010 c 179 § 5.]

18.310.060 Licensure—Requirements. (1) It is unlawful for an entity to engage or attempt to engage in business as an appraisal management company, to engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the department under this chapter.

(2) An application for the issuance or renewal of a license required by subsection (1) of this section must, at a minimum, include the following information:

- (a) Name of the entity seeking licensure;
- (b) Names under which the entity will do business;
- (c) Business address of the entity seeking licensure;
- (d) Phone contact information of the entity seeking licensure;

(e) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;

(f) The name, address, and contact information for any individual or any corporation, partnership, or other business

entity that owns ten percent or more of the appraisal management company;

(g) The name, address, and contact information for a controlling person;

(h) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company for work being done in this state holds a license or certificate in good standing under chapter 18.140 RCW;

(i) A certification that the entity has a system in place to review the work of appraisers that are performing real estate appraisal services on a periodic basis and have a policy in place to require that the real estate appraisal services provided by the appraiser are being conducted in accordance with chapter 18.140 RCW and other applicable state and federal laws;

(j) A certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the real estate appraisal services under *section 13 of this act;

(k) A certification that the entity maintains a complete copy of the completed appraisal report performed as a part of any request, for a minimum period of five years, or at least two years after final disposition of any judicial proceeding related to the assignment, under uniform standards of professional appraisal practice provisions, and that the appraisals must be provided to the department upon demand;

(l) An irrevocable uniform consent to service of process, under RCW 18.310.080; and

(m) Any other relevant information reasonably required by the department to obtain a license under the requirements of this chapter. [2010 c 179 § 7.]

***Reviser's note:** The reference to section 13 of this act appears to be erroneous. Section 12 of this act, codified as RCW 18.310.130, was apparently intended.

18.310.070 Background investigations. Background investigations under this chapter consist of fingerprint-based background checks through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant is required to pay the current federal and state fees for fingerprint-based criminal history background checks. The applicant shall submit the fingerprints and required fees for the background checks to the department for submission to the Washington state patrol. [2010 c 179 § 15.]

18.310.080 Licensure—Required use of name and license number. (1) A license issued under this chapter must bear the signature or facsimile signature of the director and a license number assigned by the director.

(2) Each licensed appraisal management company shall place the name under which it does business and its license number on any appraisal engagement document issued. [2010 c 179 § 6.]

18.310.090 Owner requirements. (1) Each entity owning more than ten percent of an appraisal management company may not be:

(a) Directly controlled by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked; or

(b) More than ten percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state.

(2) Each person that owns more than ten percent of an appraisal management company must:

(a) Not have had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under RCW 18.310.070.

(3) Each appraisal management company must certify to the department that it has reviewed each and every individual or entity that owns more than ten percent of the appraisal management company and that no person or entity that owns more than ten percent of the appraisal management company is prohibited from owning an appraisal management company under this section.

(4) A person under this section may appeal an adjudicative proceeding involving a final decision of the director to deny, suspend, or revoke a license under chapter 18.235 RCW. [2010 c 179 § 8.]

18.310.100 Controlling person requirements. (1)(a) An appraisal management company shall designate one controlling person that will be the main contact for all communication between the department and the appraisal management company.

(b) Should the controlling person change, the appraisal management company must notify the director within four business days and provide the name and contact information of the new controlling person.

(2) The controlling person designated under subsection (1) of this section must:

(a) Have never had a license or certificate to act as an appraiser surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under RCW 18.310.070. [2010 c 179 § 9.]

18.310.110 Appraiser requirements. (1) An appraisal management company may not knowingly contract with or employ as an appraiser:

(a) Any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked;

(b) Any person who has been convicted of an offense that reflects adversely upon the person's integrity, competence, or fitness to meet the responsibilities of an appraiser or appraisal management company;

(c) Any person who has been convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry:

(i) During the seven-year period preceding the date of the application for licensing and registration; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(d) Any person who is in violation of chapter 19.146 or 31.04 RCW; or

(e) Any person who is in violation of this chapter.

(2) An appraisal management company may not:

(a) Knowingly enter into any independent contractor arrangement for appraisal or appraisal review services with any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked; and

(b) Knowingly enter into any contract, agreement, or other business relationship for appraisal or appraisal review services with any entity that employs, has entered into an independent contractor arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked.

(3) Any employee of the appraisal management company, or any contractor working in any capacity on behalf of the appraisal management company, that has any involvement in the actual performance of appraisal or appraisal review services, or review and analysis of completed appraisals must be a state licensed or state-certified appraiser in the state in which the property is located, and must have geographic and product competence. This requirement does not apply to any review or examination of the appraisal for grammatical, typographical, or similar errors or general reviews of the appraisal for completeness. [2010 c 179 § 10.]

18.310.120 Exemptions. The provisions of this chapter do not apply to the following:

(1) A department or unit within a financial institution that is subject to direct regulation by an agency of the United States government, or to regulation by an agency of this state, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is part of an appraiser panel; or

(2) An appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal. [2010 c 179 § 11.]

18.310.130 Recordkeeping. An appraisal management company must certify to the department on initial application and upon renewal, that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. This statement must also certify that the appraisal management company maintains a complete copy of the completed appraisal report, for a minimum period of five years after the appraisal is completed, or two years after final disposition of

a judicial proceeding related to the assignment, whichever period expires later. [2010 c 179 § 12.]

18.310.140 Disputes between appraisal management company and appraiser. (1) Except within the first thirty days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:

(a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company, including if the appraiser is being removed from the panel for illegal conduct, a violation of state licensing standards, substandard performance, or administrative purposes. In addition, if the removal is not for administrative purposes, the nature of the alleged conduct, substandard performance, or violation must be provided; and

(b) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

(2) An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct or a violation of state licensing standards, may file a complaint with the department for a review of the decision of the appraisal management company, except that in no case will the department make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in subsection (1) of this section.

(3) If an appraiser files a complaint against an appraisal management company pursuant to subsection (2) of this section, the department may investigate the complaint within one hundred eighty days during which time the appraiser must remain removed from the panel.

(4) If after opportunity for hearing and review, the department determines that an appraiser did not commit a violation of law or a violation of state licensing standards, the department shall order that an appraiser be restored to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

(5) Following the adjudication of a complaint to the department by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser because of the adjudicated complaint, if the department has found that the appraisal management company acted without reasonable cause in removing the appraiser from the appraiser panel. [2010 c 179 § 13.]

18.310.150 Disciplinary actions—Grounds. (1) In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following:

(a) Failing to meet the minimum qualifications for licensure established under this chapter;

(b) Failing to pay appraisers no later than forty-five days after completion of the appraisal service unless otherwise agreed or unless the appraiser has been notified in writing that a bona fide dispute exists regarding the performance or quality of the appraisal service;

(c) Failing to pay appraisers even if the appraisal management company is not paid by its client;

(d) Coercing, extorting, colluding, compensating, inducing, intimidating, bribing an appraiser, or in any other manner including:

(i) Withholding or threatening to withhold timely payment for an appraisal;

(ii) Requiring the appraiser to remit a portion of the appraisal fee back to the appraisal management company;

(iii) Withholding or threatening to withhold future business for, or demoting or terminating or threatening to demote or terminate, an appraiser;

(iv) Expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;

(v) Conditioning the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(vi) Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(vii) Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions must be provided to the appraiser;

(viii) Providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits;

(ix) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide pre-funding or postfunding appraisal review or quality control process; or

(x) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality, or that violates law;

(e) Altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser;

(f) Copying and using the appraiser's signature for any purpose or in any other report;

(g) Extracting, copying, or using only a portion of the appraisal report without reference to the entire report;

(h) Prohibiting or attempting to prohibit the appraiser from including or referencing the appraisal fee, the appraisal management company name or identity, or the client's or lender's name or identity in the appraisal report;

(i) Knowingly requiring an appraiser to prepare an appraisal report, engaging an appraiser to perform an appraisal, or accepting an appraisal from an appraiser who has informed the appraisal management company that he or she does not have either the geographic competence or necessary expertise to complete the appraisal;

(j) Knowingly requiring an appraiser to prepare an appraisal report under such a limited time frame when the appraiser, in the appraiser's own professional judgment, has

informed the appraisal management company that it does not afford the appraiser the ability to meet all relevant legal and professional obligations or provide a credible opinion of value for the property being appraised. This subsection (1)(j) allows an appraiser to decline an assignment, but is not a basis for complaints against the appraisal management company;

(k) Requiring, or attempting to require, an appraiser to modify an appraisal report except as permitted under subsection (2)(a) or (b) of this section;

(l) Prohibiting, or attempting to prohibit, or inhibiting legal or other allowable communication between the appraiser and:

- (i) The lender;
- (ii) A real estate licensee;
- (iii) A property owner; or

(iv) Any other party or person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant or pertinent in completing the appraisal;

(m) Knowingly requiring or attempting to require the appraiser to do anything that violates chapter 18.140 RCW or other applicable state and federal laws or with any allowable assignment conditions or certifications required by the client;

(n) Prohibiting or refusing to allow, or attempting to prohibit or refuse to allow, the transfer of an appraisal from one lender to another lender if the lenders are allowed to transfer an appraisal under applicable federal law; or

(o) Requiring an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents, employees, or independent contractors for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

(2) Nothing in subsection (1) of this section may be construed as prohibiting the appraisal management company from requesting that an appraiser:

(a) Provide additional information about the basis for a valuation, including whether or not the appraiser considered other sales and reasons the other sales were either not considered relevant or included in the appraisal; or

(b) Correct objective factual errors in an appraisal report. [2010 c 179 § 14.]

18.310.160 Appraisal management company account. The appraisal management company account is created in the state treasury. All fees and penalties under this chapter must be paid to the account. Expenditures from the account may be used only for expenses incurred in carrying out the provisions of this chapter. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2010 c 179 § 16.]

18.310.170 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, (2016 Ed.)

the issuance and denial of licenses, and the discipline of licensees under this chapter. [2010 c 179 § 17.]

18.310.901 Effective date—2010 c 179. This act takes effect July 1, 2011. [2010 c 179 § 21.]

Chapter 18.320 RCW SOCIAL WORKERS

Sections

18.320.005	Findings—2011 c 89.
18.320.010	Representation as social worker.
18.320.020	Application of consumer protection act.

18.320.005 Findings—2011 c 89. (1) The legislature finds that:

(a) The practice of social work by persons in the public and private sectors improves the lives of many people throughout the state through the application of a broad spectrum of social sciences to enhance the quality of life and develop the full potential of each client;

(b) The practice of social work is a complex discipline that, appropriately undertaken, can address client problems, needs, and concerns, with the goal that clients achieve the maximum possible enhancement of their quality of life and develop to their full potential. However, improper assessment of client problems and needs by unqualified persons can lead to client harm;

(c) It is in the state's interest to take steps to safeguard state residents from misrepresentations about qualifications for practicing social work. Because such misrepresentations could lead to the improper practice of social work by unqualified persons, those who represent themselves as social workers should have a qualifying degree from an accredited and approved social work program.

(2) The legislature declares that chapter 89, Laws of 2011 to regulate social workers constitutes an exercise of the state's police power to protect and promote the health, safety, and welfare of the residents of the state in general. Accordingly, while chapter 89, Laws of 2011 is intended to protect the public generally, it does not create a duty owed by the state or its instrumentalities to any individual or entity. [2011 c 89 § 1.]

Effective date—2011 c 89: "This act takes effect January 1, 2012." [2011 c 89 § 21.]

18.320.010 Representation as social worker. (1) To address the goal of safeguarding Washington residents from the unqualified or improper practice of social work, a person may not represent himself or herself as a social worker unless qualified as a social worker as defined in this section.

(2) For purposes of this section, "social worker" means a person who meets one of the following qualifications:

(a) Is licensed under RCW 18.225.090(1)(a) or 18.225.145(1)(a); or

(b) Has graduated with at least a bachelor's degree from a social work educational program accredited by the council on social work education.

(3) A public agency or private entity doing business in Washington may not use the title of social worker, or a form of the title, for describing or designating volunteer or

employment positions or within contracts for services, reference materials, manuals, or other documents, unless the volunteers or employees working in those positions are qualified as a social worker as defined in this section.

(4) This section does not apply to:

(a) Persons employed in Washington on January 1, 2012, under the job title of social worker so long as the person continues to be employed by the same agency as on January 1, 2012;

(b) Persons employed by the state of Washington on January 1, 2012, under the job title of social worker so long as the person continues to be employed by the state and who shall continue to have the same layoff, reversion, transfer, and promotional opportunities as were available to the employee on January 1, 2012;

(c) Individuals employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States; or

(d) Persons providing services as an educational staff associate who are certified by the Washington professional educator standards board. However, this section applies to a certified educational staff associate providing services outside the school setting.

(5) As used in subsection (4) of this section, "agency" means any private employer or any agency of state government. [2011 c 89 § 2.]

Effective date—2011 c 89: See note following RCW 18.320.005.

18.320.020 Application of consumer protection act.

(1) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) Remedies available under chapter 19.86 RCW for a violation of this chapter do not affect any other remedy available under the law. [2011 c 89 § 3.]

Effective date—2011 c 89: See note following RCW 18.320.005.

Chapter 18.330 RCW

ELDER AND VULNERABLE ADULT REFERRAL AGENCY ACT

Sections

18.330.005	Findings.
18.330.010	Definitions.
18.330.020	Agency duties.
18.330.030	Exemptions.
18.330.040	Referral records—Agreement records.
18.330.050	Referrals—Disclosure statement.
18.330.060	Intake form.
18.330.070	How referral is made—Contact with providers—Search for violations—Uniform standard for enforcement status.
18.330.080	Fees charged to providers.
18.330.090	Disclosure of fees and refund policies.
18.330.100	Background checks—Disqualifying crimes and acts.
18.330.110	Acceptance of fees—Compliance with chapter.
18.330.120	Provisions exclusive—Local government licensing.
18.330.130	When remuneration for referral not allowed.
18.330.140	Application of consumer protection act.
18.330.150	Liability of agencies.
18.330.800	Work group—Licensure.

18.330.900 Short title.

18.330.901 Effective date—2011 c 357.

18.330.005 Findings. (1) The legislature finds that locating acceptable housing and appropriate care for vulnerable adults is an important aspect of providing an appropriate continuity of care for senior citizens.

(2) The legislature further finds that locating appropriate and quality housing alternatives sometimes depends on elder and vulnerable adult referral agencies attempting to assist with referral.

(3) The legislature further finds that vulnerable adult referral professionals should be required to meet certain minimum requirements to promote better integration of vulnerable adult housing choices.

(4) The legislature further finds that the requirement that elder and vulnerable adult referral agencies meet minimum standards of conduct is in the interest of public health, safety, and welfare. [2011 c 357 § 1.]

18.330.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Care services" means any combination of services, including in-home care, private duty care, or private duty nursing designed for or with the goal of allowing vulnerable adults to receive care and related services at home or in a home-like setting. Care service providers must include home health agencies and in-home service agencies licensed under chapter 70.127 RCW.

(2) "Client" means an elder person or a vulnerable adult, or his or her representative if any, seeking a referral or assistance with entering into an arrangement for supportive housing or care services in Washington state through an elder and vulnerable adult referral agency. For purposes of this chapter, the "client's representative" means the person authorized under RCW 7.70.065 or other laws to provide informed consent for an individual unable to do so. "Client" may also mean a person seeking a referral for supportive housing or care services on behalf of the elder person or vulnerable adult through an elder care referral service: PROVIDED, That such a person is a family member, relative, or domestic partner of the senior or vulnerable adult.

(3) "Elder and vulnerable adult referral agency" or "agency" means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing, or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

(4) "Fee" means anything of value. "Fee" includes money or other valuable consideration or services or the promise of money or other valuable consideration or services, received directly or indirectly by an elder and vulnerable adult referral agency.

(5) "Information" means the provision of general information by an agency to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without giving the person the names of specific providers of care services or supportive housing, or giving a provider the name of the per-

son or vulnerable adult. Information also means the provision by an agency of the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, where the agency does not request or receive any fee.

(6) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, organization, service, office, or an agent or any of their employees.

(7) "Provider" means any entity or person that both provides supportive housing or care services to a vulnerable adult for a fee and provides or is required to provide such housing or services under a state or local business license specific to such housing or services.

(8) "Referral" means the act of an agency giving a client the name or names of specific providers of care services or supportive housing that may meet the needs of the vulnerable adult identified in the intake form described in RCW 18.330.060, or the agency gives a provider the name of a client for the purposes of enabling the provider to contact the client regarding care services or supportive housing provided by that provider.

(9) "Supportive housing" means any type of housing that includes services for care needs and is designed for prospective residents who are vulnerable adults. Supportive housing includes, but is not limited to, nursing homes licensed under chapter 18.51 RCW, *boarding homes licensed under chapter 18.20 RCW, adult family homes licensed under chapter 70.128 RCW, and continuing care retirement communities under RCW 70.38.025.

(10) "Vulnerable adult" has the same meaning as in RCW 74.34.020. [2011 c 357 § 2.]

***Reviser's note:** The term "boarding home" was changed to "assisted living facility" by 2012 c 10.

18.330.020 Agency duties. (1) As of January 1, 2012, a business or person operating or maintaining an agency in this state is subject to the provisions of this chapter. An agency must maintain general and professional liability insurance to cover the acts and services of the agency. The combined liability insurance coverage required is one million dollars.

(2) The agency may not create an exclusive agreement between the agency and the client, or between the agency and a provider. The agency cannot provide referral services to a client where the only names given to the client are of providers in which the agency or its personnel or immediate family members have an ownership interest in those providers. An agreement entered into between an agency and a provider must allow either the provider or the agency to cancel the agreement with specific payment terms regarding pending fees or commissions outlined in the agreement.

(3) The marketing materials, informational brochures, and web sites owned or operated by an agency, and concerning information or referral services for elderly or vulnerable adults, must include a clear identification of the agency.

(4) All owners, operators, and employees of an agency shall be considered mandated reporters under the vulnerable adults act, chapter 74.34 RCW. No agency may develop or enforce any policies or procedures that interfere with the

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reporting requirements of chapter 74.34 RCW. [2011 c 357 § 3.]

18.330.030 Exemptions. Nothing in this chapter may be construed to prohibit, restrict, or apply to:

(1) Any home health or hospice agency while providing counseling to patients on placement options in the normal course of practice;

(2) Government entities providing information and assistance to vulnerable adults unless making a referral in which a fee is received from a client;

(3) Professional guardians providing services under authority of their guardianship appointment;

(4) Supportive housing or care services providers who make referrals to other supportive housing or care services providers where no monetary value is exchanged;

(5) Social workers, discharge planners, or other social services staff assisting a vulnerable adult to define supportive housing or care services providers in the course of their employment responsibilities if they do not receive any monetary value from a provider; or

(6) Any person to the extent that he or she provides information to another person. [2011 c 357 § 4.]

18.330.040 Referral records—Agreement records.

(1) Each agency shall keep records of all referrals rendered to or on behalf of clients. These records must contain:

(a) The name of the vulnerable adult, and the address and phone number of the client or the client's representative, if any;

(b) The kind of supportive housing or care services for which referral was sought;

(c) The location of the care services or supportive housing referred to the client and probable duration, if known;

(d) The monthly or unit cost of the supportive housing or care services, if known;

(e) If applicable, the amount of the agency's fee to the client or to the provider;

(f) If applicable, the dates and amounts of refund of the agency's fee, if any, and reason for such refund; and

(g) A copy of the client's disclosure and intake forms described in RCW 18.330.050 and 18.330.060.

(2) Each agency shall also keep records of any contract or written agreement entered into with any provider for services rendered to or on behalf of a vulnerable adult, including any referrals to a provider. Any provision in a contract or written agreement not consistent with this chapter is void and unenforceable.

(3) The agency must maintain the records covered by this chapter for a period of six years. The agency's records identifying a client are considered "health care information" and the provisions of chapter 70.02 RCW apply but only to the extent that such information meets the definition of "health care information" under *RCW 70.02.010(7). The client must have access upon request to the agency's records concerning the client and covered by this chapter. [2011 c 357 § 5.]

***Reviser's note:** RCW 70.02.010 was amended by 2013 c 200 § 1, changing subsection (7) to subsection (16), effective July 1, 2014.

18.330.050 Referrals—Disclosure statement. (1) An agency must provide a disclosure statement to each client prior to making a referral. A disclosure statement is not required when the agency is only providing information to a person. The disclosure statement must be acknowledged by the client prior to the referral and the agency shall retain a copy of the disclosure statement and acknowledgment. Acknowledgment may be in the form of:

(a) A signature of the client or legal representative on the exact disclosure statement;

(b) An electronic signature that includes the date, time, internet provider address, and displays the exact disclosure statement document;

(c) A faxed confirmation that includes the date, time, and fax number and displaying the exact disclosure statement document; or

(d) In instances where a vulnerable adult chooses not to sign or otherwise provide acknowledgment of the disclosure statement, the referral professional or agency may satisfy the acknowledgment requirement of this subsection (1) by documenting the client's refusal to sign.

(2) The disclosure statement must be dated and must contain the following information:

(a) The name, address, and telephone number of the agency;

(b) The name of the client;

(c) The amount of the fee to be received from the client, if any. Alternatively, if the fee is to be received from the provider, the method of computation of the fee and the time and method of payment. In addition, the agency shall disclose to the client the amount of fee to be received from the provider, if the client requests such information;

(d) A clear description of the services provided by the agency in general, and to be provided specifically for the client;

(e) A provision stating that the agency may not require or request clients to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of any rights of the client established in state or federal law;

(f) A provision stating that the agency works with both the client and the care services or supportive housing provider in the same transaction, and an explanation that the agency will need the client's authorization to obtain or disclose confidential health care information;

(g) A statement indicating the frequency on which the agency regularly tours provider facilities, and that, at the time of referral, the agency will inform the client in writing or by electronic means if the agency has toured the referred supportive housing provider or providers, and if so, the most recent date that tour took place;

(h) A provision stating that the client may, without cause, stop using the agency or switch to another agency without penalty or cancellation fee to the client;

(i) An explanation of the agency's refund of fees policy, which must be consistent with RCW 18.330.090;

(j) A statement that the client may file a complaint with the attorney general's office for violations of this chapter, including the name, address, and telephone number of the consumer protection division of that office; and

(k) If the agency or its personnel who are directly involved in providing referrals to clients, including the per-

sonnel's immediate family members, have an ownership interest in the supportive housing or care services to which the client is given a referral, a provision stating that the agency or such personnel or their immediate family members have an ownership interest in the supportive housing or care services to which the client is given referral services, and, if such ownership interest exists, an explanation of that interest. [2011 c 357 § 6.]

18.330.060 Intake form. (1) The agency shall use a standardized intake form for all clients prior to making a referral. The intake form must, at a minimum, contain the following information regarding the vulnerable adult:

(a) Recent medical history, as relevant to the referral process;

(b) Known medications and medication management needs;

(c) Known medical diagnoses, health concerns, and the reasons the client is seeking supportive housing or care services;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness, dementia, or developmental disability diagnosis, if any;

(f) Assistance needed for daily living;

(g) Particular cultural or language access needs and accommodations;

(h) Activity preferences;

(i) Sleeping habits of the vulnerable adult, if known;

(j) Basic information about the financial situation of the vulnerable adult and the availability of any long-term care insurance or financial assistance, including medicaid, which may be helpful in defining supportive housing and care services options for the vulnerable adult;

(k) Current living situation of the client;

(l) Geographic location preferences; and

(m) Preferences regarding other issues important to the client, such as food and daily routine.

(2) The agency shall obtain the intake information from the most available sources, such as from the client, the client's representative, or a health care professional, and shall allow the vulnerable adult to participate to the maximum extent possible.

(3) The agency may provide information to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without the need to complete an intake form or provide a disclosure statement, if the agency does not make a referral or request or receive any fee. In addition, the agency may provide the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, provided the agency does not request or receive any fee. [2011 c 357 § 7.]

18.330.070 How referral is made—Contact with providers—Search for violations—Uniform standard for enforcement status. (1) The agency may choose to provide a referral for the client by either giving the client the name or names of specific providers who may meet the needs of the vulnerable adult identified in the intake form or by giving a

provider or providers the name of the client after obtaining the authorization of the client or the client's representative.

(2)(a) Prior to making a referral to a specific provider, the agency shall speak with a representative of the provider and obtain, at a minimum, the following general information, which must be dated and retained in the agency's records:

(i) The type of license held by the provider and license number;

(ii) Whether the provider is authorized by license to provide care to individuals with a mental illness, dementia, or developmental disability;

(iii) Sources of payment accepted, including whether medicaid is accepted;

(iv) General level of medication management services provided;

(v) General level and types of personal care services provided;

(vi) Particular cultural needs that may be accommodated;

(vii) Primary language spoken by care providers;

(viii) Activities typically provided;

(ix) Behavioral problems or symptoms that can or cannot be met;

(x) Food preferences and special diets that can be accommodated; and

(xi) Other special care or services available.

(b) The agency shall update this information regarding the provider at least annually. To the extent practicable, referrals shall be made to providers who appear, in the best judgment of the agency, capable of meeting the vulnerable adult's identified needs.

(3) Prior to making a referral of a supportive housing provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of social and health service's web site to see if the provider is in enforcement status for violation of its licensing regulations. Prior to making a referral of a care services provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of health's web site to determine if the provider is in enforcement status for violation of its licensing regulations. The searches required by this subsection must be considered timely if done within thirty days before the referral. The information obtained by the agency from the searches must be disclosed in writing to the client if the referral includes that provider.

(4) By January 1, 2012, the department of social and health services and the department of health must convene a work group of stakeholders to collaboratively identify and implement a uniform standard for the information pertaining to the enforcement status of a provider that must be disclosed to the client under subsection (3) of this section. The uniform standard must clearly identify what elements of an enforcement action should be included under the disclosure requirements of subsection (3) of this section. Agencies will have no liability or responsibility for the accuracy, completeness, timeliness, or currency of information shared in the prescribed format and are immune from any cause of action arising from their reliance on, use of, or distribution of this information. [2011 c 357 § 8.]

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18.330.080 Fees charged to providers. Nothing in this chapter will limit, specify, or otherwise regulate the fees charged by an agency to a provider for a referral. [2011 c 357 § 9.]

18.330.090 Disclosure of fees and refund policies. (1) The agency shall clearly disclose its fees and refund policies to clients and providers. If the agency receives a fee regarding a client who was provided referral services for supportive housing, and the vulnerable adult dies, is hospitalized, or is transferred to another supportive housing setting for more appropriate care within the first thirty days of admission, then the agency shall refund a portion of its fee to the person who paid it, whether that is the client or the supportive housing provider. The amount refunded must be a prorated portion of the agency's fees, based upon a per diem calculation for the days that the client resided or retained a bed in the supportive housing.

(2) A refund policy inconsistent with this section is void and unenforceable.

(3) This section does not limit the application of other remedies, including the consumer protection act, chapter 19.86 RCW. [2011 c 357 § 10.]

18.330.100 Background checks—Disqualifying crimes and acts. Any employee, owner, or operator of an agency that works with vulnerable adults must pass a criminal background check every twenty-four months and not have been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or been found by a court of law or disciplinary authority to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult. [2011 c 357 § 11.]

18.330.110 Acceptance of fees—Compliance with chapter. An agency may not charge or accept a fee or other consideration from a client, care services provider, or supportive housing provider unless the agency substantially complies with the terms of this chapter. [2011 c 357 § 12.]

18.330.120 Provisions exclusive—Local government licensing. (1) The provisions of this chapter relating to the regulation of private elder and vulnerable adult referral agencies are exclusive.

(2) This chapter may not be construed to affect or reduce the authority of any political subdivision of the state of Washington to provide for the licensing of private elder and vulnerable adult referral agencies solely for revenue purposes. [2011 c 357 § 13.]

18.330.130 When remuneration for referral not allowed. In accordance with RCW 74.09.240, the agency may not solicit or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under chapter 74.09 RCW. [2011 c 357 § 14.]

18.330.140 Application of consumer protection act. The legislature finds that the operation of an agency in viola-

tion of this chapter is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. [2011 c 357 § 15.]

18.330.150 Liability of agencies. Agencies and their employees, owners, and officers will not be considered providers and will not be liable or responsible for the acts or omissions of a provider. [2011 c 357 § 16.]

18.330.800 Work group—Licensure. The department of licensing shall convene a work group of stakeholders to consider the feasibility of establishing licensure for elder and vulnerable adult referral agencies described in chapter 357, Laws of 2011. The work group will provide recommendations to the legislature by December 1, 2011. [2011 c 357 § 17.]

18.330.900 Short title. This chapter may be known and cited as the "elder and vulnerable adult referral agency act." [2011 c 357 § 18.]

18.330.901 Effective date—2011 c 357. This act takes effect January 1, 2012. [2011 c 357 § 20.]

Chapter 18.340 RCW

MILITARY SPOUSES—PROFESSIONAL LICENSING

Sections

- 18.340.010 Intent.
18.340.020 Expedition of professional license, certification, registration, or permit.

18.340.010 Intent. The lives of military families are dominated by frequent deployments, relocations, and extended periods of single parenthood. Military spouses are some of the most mobile populations in our country, making the maintenance of professional licenses a significant obstacle. According to the 2010 defense management data center, there are thirty-three thousand three hundred eighty active duty and ten thousand eight hundred thirty-seven reserve military spouses residing in Washington. Military families depend on two incomes and want to achieve their goals and aspirations. It is the intent of the legislature to recognize the sacrifices made by military families in service to our country and our state and to help alleviate the hardships military families face due to their highly transient life. [2011 2nd sp.s. c 5 § 1.]

Implementation—2011 2nd sp.s. c 5: "The regulating authorities for the department of licensing, the department of health, the department of labor and industries, and the superintendent of public instruction shall appear before the joint committee on veteran and military affairs in December 2012 to inform the committee as to their efforts to implement the requirements of this chapter." [2011 2nd sp.s. c 5 § 3.]

18.340.020 Expedition of professional license, certification, registration, or permit. (1) For the purposes of this section, "authority" means any board, commission, or other

authority for issuance of a license, certificate, registration, or permit under this title.

(2) To the extent resources are available:

(a) Each authority shall establish procedures to expedite the issuance of a license, certificate, registration, or permit to perform professional services regulated by each such authority to a person:

(i) Who is certified or licensed, certified, or registered, or has a permit in another state to perform professional services in that state;

(ii) Whose spouse is the subject of a military transfer to Washington; and

(iii) Who left employment in the other state to accompany the person's spouse to Washington.

(b) The procedure must include a process for issuing the person a license, certificate, registration, or permit, if, in the opinion of the authority, the requirements for licensure, certification, registration, or obtaining a permit of such other state are substantially equivalent to that required in Washington.

(c) Each authority in this title shall develop a method and adopt rules to authorize a person who meets the criteria in (a)(i) through (iii) of this subsection to perform services regulated by the authority in Washington by issuing the person a temporary license, certificate, registration, or permit for a limited period of time to allow the person to perform services regulated by the authority while completing any specific additional requirements in Washington that are not related to training or practice standards of the profession that were not required in the other state in which the person is licensed, certified, or registered, or has a permit. Nothing in this section requires the authority to issue a temporary license, certificate, registration, or permit if the standards of the other state are substantially unequal to Washington standards.

(d) An applicant must state in the application that he or she:

(i) Has requested verification from the other state or states that the person is currently licensed, certified, registered, or has a permit; and

(ii) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body of the other state or states.

(e) If the authority finds reasonable cause to believe that an applicant falsely affirmed or stated either of the requirements under (d)(i) or (ii) of this subsection, the authority may summarily suspend the license, certificate, registration, or permit pending an investigation or further action to discipline or revoke the license, certificate, registration, or permit. [2011 2nd sp.s. c 5 § 2.]

Implementation—2011 2nd sp.s. c 5: See note following RCW 18.340.010.

Chapter 18.350 RCW

DENTAL ANESTHESIA ASSISTANTS

Sections

- 18.350.010 Definitions.
18.350.020 Use of title—Certification or registration required.
18.350.030 Application for certification.
18.350.040 Authorized functions—Supervision.
18.350.050 Uniform disciplinary act—Application.

18.350.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Close supervision" has the same meaning as in RCW 18.260.010.
- (2) "Commission" means the dental quality assurance commission established in RCW 18.32.0351.
- (3) "Department" means the department of health.
- (4) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon or dental anesthesiologist by verbal command and under direct line of sight.
- (5) "Oral and maxillofacial surgeon" has the same meaning as in RCW 18.32.020.
- (6) "Secretary" means [the] secretary of health. [2012 c 23 § 1.]

18.350.020 Use of title—Certification or registration required. (1) No person may practice or represent himself or herself as a certified dental anesthesia assistant by use of any title or description without being certified by the commission as having met the standards established for certification under this chapter.

(2) A certified dental anesthesia assistant may not practice or represent himself or herself as a registered dental assistant without being registered by the commission as having met the standards for registration under chapter 18.260 RCW. [2012 c 23 § 2.]

18.350.030 Application for certification. (1) Each applicant for certification as a dental anesthesia assistant must submit to the department:

- (a) An application, on a form provided by the department, with the applicant's name, address, and name and location of the oral and maxillofacial surgeon or dental anesthesiologist where the assistant will be performing his or her services;
- (b) An application fee, as determined by the secretary of health as provided in RCW 43.70.250 and 43.70.280; and
- (c) Satisfactory evidence of:
 - (i) Completion of a commission-approved dental anesthesia assistant training course, to include intravenous access or phlebotomy. This training must include experience starting and maintaining intravenous lines;
 - (ii) Completion of a commission-approved basic life support/cardiac pulmonary resuscitation course; and
 - (iii) The valid general anesthesia permit of the oral and maxillofacial surgeon or dental anesthesiologist where the assistant will be performing his or her services.

(2) The commission may adopt rules for the requirements for renewal of the certification, including continuing education requirements consistent with national oral and maxillofacial surgery requirements.

(3) The secretary shall establish the administrative procedures, administrative requirements, and fees for renewal of certifications as provided in RCW 43.70.250 and 43.70.280. [2012 c 23 § 3.]

18.350.040 Authorized functions—Supervision. (1) Any dental anesthesia assistant certified pursuant to this chapter shall perform the functions authorized in this chapter only by delegation of authority from the oral and maxillofacial (2016 Ed.)

cial surgeon or dental anesthesiologist and under the supervision, as described in subsections (2) and (3) of this section, of the oral and maxillofacial surgeon or dental anesthesiologist acting within the scope of his or her license. The responsibility for monitoring a patient and determining the selection of the drug, dosage, and timing of all anesthetic medications rests solely with the oral and maxillofacial surgeon or dental anesthesiologist.

(2) Under close supervision, the dental anesthesia assistant may:

(a) Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation, or general anesthesia; and

(b) Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open.

(3) Under direct visual supervision, the dental anesthesia assistant may:

(a) Draw up and prepare medications;

(b) Follow instructions to deliver medications into an intravenous line upon verbal command;

(c) Adjust the rate of intravenous fluids infusion beyond a keep open rate;

(d) Adjust an electronic device to provide medications, such as an infusion pump;

(e) Administer emergency medications to a patient in order to assist the oral and maxillofacial surgeon or dental anesthesiologist in an emergency.

(4) Any oral and maxillofacial surgeon or dental anesthesiologist delegating duties under this section must have a valid general anesthesia permit and, if the dental anesthesia assistant does not possess advanced cardiac life support training, must be current in such training. [2012 c 23 § 4.]

18.350.050 Uniform disciplinary act—Application. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of certification, and the discipline of certified dental anesthesia assistants under this chapter. [2012 c 23 § 5.]

**Chapter 18.360 RCW
MEDICAL ASSISTANTS**

Sections

18.360.005	Findings—Intent.
18.360.010	Definitions.
18.360.020	Certification or registration required.
18.360.030	Minimum qualifications—Rules—Review of other specialties.
18.360.040	Certification and registration requirements.
18.360.050	Authorized duties.
18.360.060	Delegation—Health care practitioner duties.
18.360.070	Authority of secretary.
18.360.080	Certifications existing before July 1, 2013.
18.360.090	Exemptions.
18.360.100	Career path plan—Report.
18.360.110	Military training or experience.

18.360.005 Findings—Intent. The legislature finds that medical assistants are health professionals specifically trained to work in settings such as physicians' offices, clinics, group practices, and other health care facilities. These multiskilled personnel are trained to perform administrative and clinical procedures under the supervision of health care providers. Physicians value this unique versatility more and

more because of the skills of medical assistants and their ability to contain costs and manage human resources efficiently. The demand for medical assistants is expanding rapidly. The efficient and effective delivery of health care in Washington will be improved by recognizing the valuable contributions of medical assistants, and providing statutory support for medical assistants in Washington state. The legislature intends that individuals performing specialized functions be trained and supervised in a manner that will not pose an undue risk to patient safety. The legislature further finds that rural and small medical practices and clinics may have limited access to formally trained medical assistants. The legislature further intends that the secretary of health develop recommendations for a career ladder that includes medical assistants. [2013 c 128 § 1; 2012 c 153 § 1.]

Implementation—2013 c 128: "The department of health may delay the implementation of the medical assistant-registered credential to the extent necessary to comply with this act." [2013 c 128 § 6.]

Effective date—2013 c 128: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2013." [2013 c 128 § 7.]

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: "Sections 1 through 12, 14, 16, and 18 of this act take effect July 1, 2013." [2012 c 153 § 22.]

Rules—2012 c 153: "The secretary of health shall adopt any rules necessary to implement this act." [2012 c 153 § 21.]

18.360.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administer" means the retrieval of medication, and its application to a patient, as authorized in RCW 18.360.050.

(2) "Delegation" means direct authorization granted by a licensed health care practitioner to a medical assistant to perform the functions authorized in this chapter which fall within the scope of practice of the health care provider and the training and experience of the medical assistant.

(3) "Department" means the department of health.

(4) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician and surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician assistant licensed under chapter 18.57A RCW, or an optometrist licensed under chapter 18.53 RCW.

(5) "Medical assistant-certified" means a person certified under RCW 18.360.040 who assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(6) "Medical assistant-hemodialysis technician" means a person certified under RCW 18.360.040 who performs hemodialysis and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(7) "Medical assistant-phlebotomist" means a person certified under RCW 18.360.040 who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(8) "Medical assistant-registered" means a person registered under RCW 18.360.040 who, pursuant to an endorsement by a health care practitioner, clinic, or group practice, assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(9) "Secretary" means the secretary of the department of health.

(10) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility. The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available. [2016 c 124 § 1; 2012 c 153 § 2.]

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.020 Certification or registration required. (1)

No person may practice as a medical assistant-certified, medical assistant-hemodialysis technician, or medical assistant-phlebotomist unless he or she is certified under RCW 18.360.040.

(2) No person may practice as a medical assistant-registered unless he or she is registered under RCW 18.360.040. [2012 c 153 § 3.]

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.030 Minimum qualifications—Rules—Review of other specialties. (1) The secretary shall adopt rules specifying the minimum qualifications for a medical assistant-certified, medical assistant-hemodialysis technician, and medical assistant-phlebotomist. The qualifications for a medical assistant-hemodialysis technician must be equivalent to the qualifications for hemodialysis technicians regulated pursuant to *chapter 18.135 RCW as of January 1, 2012.

(2) The secretary shall adopt rules that establish the minimum requirements necessary for a health care practitioner, clinic, or group practice to endorse a medical assistant as qualified to perform the duties authorized by this chapter and be able to file an attestation of that endorsement with the department.

(3) The medical quality assurance commission, the board of osteopathic medicine and surgery, the podiatric medical board, the nursing care quality assurance commission, the board of naturopathy, and the optometry board shall each review and identify other specialty assistive personnel not included in this chapter and the tasks they perform. The department of health shall compile the information from each disciplining authority listed in this subsection and submit the compiled information to the legislature no later than December 15, 2012. [2012 c 153 § 4.]

*Reviser's note: Chapter 18.135 RCW was repealed by 2012 c 153 § 20.

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.040 Certification and registration requirements. (1)(a) The secretary shall issue a certification as a medical assistant-certified to any person who has satisfactorily completed a medical assistant training program approved by the secretary, passed an examination approved by the secretary, and met any additional qualifications established under RCW 18.360.030.

(b) The secretary shall issue an interim certification to any person who has met all of the qualifications in (a) of this subsection, except for the passage of the examination. A person holding an interim permit possesses the full scope of practice of a medical assistant-certified. The interim permit expires upon passage of the examination or after one year, whichever occurs first, and may not be renewed.

(2) The secretary shall issue a certification as a medical assistant-hemodialysis technician to any person who meets the qualifications for a medical assistant-hemodialysis technician established under RCW 18.360.030.

(3) The secretary shall issue a certification as a medical assistant-phlebotomist to any person who meets the qualifications for a medical assistant-phlebotomist established under RCW 18.360.030.

(4)(a) The secretary shall issue a registration as a medical assistant-registered to any person who has a current endorsement from a health care practitioner, clinic, or group practice.

(b) In order to be endorsed under this subsection (4), a person must:

(i) Be endorsed by a health care practitioner, clinic, or group practice that meets the qualifications established under RCW 18.360.030; and

(ii) Have a current attestation of his or her endorsement to perform specific medical tasks signed by a supervising health care practitioner filed with the department. A medical assistant-registered may only perform the medical tasks listed in his or her current attestation of endorsement.

(c) A registration based on an endorsement by a health care practitioner, clinic, or group practice is not transferable to another health care practitioner, clinic, or group practice.

(d) An applicant for registration as a medical assistant-registered who applies to the department within seven days of employment by the endorsing health care practitioner, clinic, or group practice may work as a medical assistant-registered for up to sixty days while the application is processed. The applicant must stop working on the sixtieth day of employment if the registration has not been granted for any reason.

(5) A certification issued under subsections (1) through (3) of this section is transferable between different practice settings. [2013 c 128 § 2; 2012 c 153 § 5.]

Implementation—Effective date—2013 c 128: See notes following RCW 18.360.005.

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

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18.360.050 Authorized duties. (1) A medical assistant-certified may perform the following duties delegated by, and under the supervision of, a health care practitioner:

(a) Fundamental procedures:

(i) Wrapping items for autoclaving;

(ii) Procedures for sterilizing equipment and instruments;

(iii) Disposing of biohazardous materials; and

(iv) Practicing standard precautions.

(b) Clinical procedures:

(i) Performing aseptic procedures in a setting other than a hospital licensed under chapter 70.41 RCW;

(ii) Preparing of and assisting in sterile procedures in a setting other than a hospital under chapter 70.41 RCW;

(iii) Taking vital signs;

(iv) Preparing patients for examination;

(v) Capillary blood withdrawal, venipuncture, and intradermal, subcutaneous, and intramuscular injections; and

(vi) Observing and reporting patients' signs or symptoms.

(c) Specimen collection:

(i) Capillary puncture and venipuncture;

(ii) Obtaining specimens for microbiological testing; and

(iii) Instructing patients in proper technique to collect urine and fecal specimens.

(d) Diagnostic testing:

(i) Electrocardiography;

(ii) Respiratory testing; and

(iii)(A) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under this subsection (1)(d) based on changes made by the federal clinical laboratory improvement amendments program; and

(B) Moderate complexity tests if the medical assistant-certified meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing.

(e) Patient care:

(i) Telephone and in-person screening limited to intake and gathering of information without requiring the exercise of judgment based on clinical knowledge;

(ii) Obtaining vital signs;

(iii) Obtaining and recording patient history;

(iv) Preparing and maintaining examination and treatment areas;

(v) Preparing patients for, and assisting with, routine and specialty examinations, procedures, treatments, and minor office surgeries;

(vi) Maintaining medication and immunization records; and

(vii) Screening and following up on test results as directed by a health care practitioner.

(f)(i) Administering medications. A medical assistant-certified may only administer medications if the drugs are:

(A) Administered only by unit or single dosage, or by a dosage calculated and verified by a health care practitioner. For purposes of this section, a combination or multidose vaccine shall be considered a unit dose;

(B) Limited to legend drugs, vaccines, and Schedule III-V controlled substances as authorized by a health care practitioner.

tioner under the scope of his or her license and consistent with rules adopted by the secretary under (f)(ii) of this subsection; and

(C) Administered pursuant to a written order from a health care practitioner.

(ii) A medical assistant-certified may not administer experimental drugs or chemotherapy agents. The secretary may, by rule, further limit the drugs that may be administered under this subsection (1)(f). The rules adopted under this subsection must limit the drugs based on risk, class, or route.

(g) Intravenous injections. A medical assistant-certified may administer intravenous injections for diagnostic or therapeutic agents under the direct visual supervision of a health care practitioner if the medical assistant-certified meets minimum standards established by the secretary in rule. The minimum standards must be substantially similar to the qualifications for category D and F health care assistants as they exist on July 1, 2013.

(h) Urethral catheterization when appropriately trained.

(2) A medical assistant-hemodialysis technician may perform hemodialysis when delegated and supervised by a health care practitioner. A medical assistant-hemodialysis technician may also administer drugs and oxygen to a patient when delegated and supervised by a health care practitioner and pursuant to rules adopted by the secretary.

(3) A medical assistant-phlebotomist may perform:

(a) Capillary, venous, or arterial invasive procedures for blood withdrawal when delegated and supervised by a health care practitioner and pursuant to rules adopted by the secretary;

(b) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under this section based on changes made by the federal clinical laboratory improvement amendments program;

(c) Moderate and high complexity tests if the medical assistant-phlebotomist meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing; and

(d) Electrocardiograms.

(4) A medical assistant-registered may perform the following duties delegated by, and under the supervision of, a health care practitioner:

(a) Fundamental procedures:

(i) Wrapping items for autoclaving;

(ii) Procedures for sterilizing equipment and instruments;

(iii) Disposing of biohazardous materials; and

(iv) Practicing standard precautions.

(b) Clinical procedures:

(i) Preparing for sterile procedures;

(ii) Taking vital signs;

(iii) Preparing patients for examination; and

(iv) Observing and reporting patients' signs or symptoms.

(c) Specimen collection:

(i) Obtaining specimens for microbiological testing; and

(ii) Instructing patients in proper technique to collect urine and fecal specimens.

(d) Patient care:

(i) Telephone and in-person screening limited to intake and gathering of information without requiring the exercise of judgment based on clinical knowledge;

(ii) Obtaining vital signs;

(iii) Obtaining and recording patient history;

(iv) Preparing and maintaining examination and treatment areas;

(v) Preparing patients for, and assisting with, routine and specialty examinations, procedures, treatments, and minor office surgeries utilizing no more than local anesthetic. The department may, by rule, prohibit duties authorized under this subsection (4)(d)(v) if performance of those duties by a medical assistant-registered would pose an unreasonable risk to patient safety;

(vi) Maintaining medication and immunization records; and

(vii) Screening and following up on test results as directed by a health care practitioner.

(e)(i) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under subsection (1)(d) of this section based on changes made by the federal clinical laboratory improvement amendments program.

(ii) Moderate complexity tests if the medical assistant-registered meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing.

(f) Administering eye drops, topical ointments, and vaccines, including combination or multidose vaccines.

(g) Urethral catheterization when appropriately trained. [2014 c 138 § 1; 2013 c 128 § 3; 2012 c 153 § 6.]

Implementation—Effective date—2013 c 128: See notes following RCW 18.360.005.

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.060 Delegation—Health care practitioner duties. (1) Prior to delegation of any of the functions in RCW 18.360.050, a health care practitioner shall determine to the best of his or her ability each of the following:

(a) That the task is within that health care practitioner's scope of licensure or authority;

(b) That the task is indicated for the patient;

(c) The appropriate level of supervision;

(d) That no law prohibits the delegation;

(e) That the person to whom the task will be delegated is competent to perform that task; and

(f) That the task itself is one that should be appropriately delegated when considering the following factors:

(i) That the task can be performed without requiring the exercise of judgment based on clinical knowledge;

(ii) That results of the task are reasonably predictable;

(iii) That the task can be performed without a need for complex observations or critical decisions;

(iv) That the task can be performed without repeated clinical assessments; and

(v)(A) For a medical assistant other than a medical assistant-hemodialysis technician, that the task, if performed improperly, would not present life-threatening consequences

or the danger of immediate and serious harm to the patient; and

(B) For a medical assistant-hemodialysis technician, that the task, if performed improperly, is not likely to present life-threatening consequences or the danger of immediate and serious harm to the patient.

(2) Nothing in this section prohibits the use of protocols that do not involve clinical judgment and do not involve the administration of medications, other than vaccines. [2013 c 128 § 4; 2012 c 153 § 7.]

Implementation—Effective date—2013 c 128: See notes following RCW 18.360.005.

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.070 Authority of secretary. (1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

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

(c) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.250 and 43.70.280. Until July 1, 2016, for purposes of setting fees under this section, the secretary shall consider persons registered or certified under this chapter and health care assistants, certified under *chapter 18.135 RCW, as one profession;

(d) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter;

(e) Maintain the official department of health record of all applicants and credential holders; and

(f) Establish requirements and procedures for an inactive registration or certification.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of a registration or certification, and the discipline of persons registered or certified under this chapter. [2012 c 153 § 8.]

*Reviser's note: Chapter 18.135 RCW was repealed by 2012 c 153 § 20.

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.080 Certifications existing before July 1, 2013.

(1) The department may not issue new certifications for category C, D, E, or F health care assistants on or after July 1, 2013. The department shall certify a category C, D, E, or F health care assistant whose certification is in good standing and who was certified prior to July 1, 2013, as a medical assistant-certified when he or she renews his or her certification.

(2) The department may not issue new certifications for category G health care assistants on or after July 1, 2013. The department shall certify a category G health care assistant whose certification is in good standing and who was certified prior to July 1, 2013, as a medical assistant-hemodialysis technician when he or she renews his or her certification.

(3) The department may not issue new certifications for category A or B health care assistants on or after July 1, 2013. The department shall certify a category A or B health care

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assistant whose certification is in good standing and who was certified prior to July 1, 2013, as a medical assistant-phlebotomist when he or she renews his or her certification. [2013 c 128 § 5; 2012 c 153 § 9.]

Implementation—Effective date—2013 c 128: See notes following RCW 18.360.005.

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.090 Exemptions. Nothing in this chapter prohibits or affects:

(1) A person licensed under this title performing services within his or her scope of practice;

(2) A person performing functions in the discharge of official duties on behalf of the United States government including, but not limited to, the armed forces, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) A person trained by a federally approved end-stage renal disease facility who performs end-stage renal dialysis in the home setting;

(4) A person registered or certified under this chapter from performing blood-drawing procedures in the residences of research study participants when the procedures have been authorized by the institutional review board of a comprehensive cancer center or nonprofit degree-granting institution of higher education and are conducted under the general supervision of a physician; or

(5) A person participating in an externship as part of an approved medical assistant training program under the direct supervision of an on-site health care provider. [2012 c 153 § 10.]

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.100 Career path plan—Report. Within existing resources, the secretary shall develop recommendations regarding a career path plan for medical assistants. The secretary shall consult with stakeholders, including, but not limited to, health care practitioner professional organizations, organizations representing health care workers, community colleges, career colleges, and technical colleges. The recommendations must include methods for including credit for prior learning. The purpose of the plan is to evaluate and map career paths for medical assistants and entry-level health care workers to transition by means of a career ladder into medical assistants or other health care professions. The recommendations must identify barriers to career advancement and career ladder training initiatives. The department shall report its recommendations to the legislature no later than December 15, 2012. [2012 c 153 § 11.]

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

18.360.110 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not

substantially equivalent to the standards of this state. [2012 c 153 § 12.]

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

Chapter 18.370 RCW TANNING FACILITIES

Sections

18.370.010	Definitions.
18.370.020	Minors prohibited—Proof of age.
18.370.030	Penalty.

18.370.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Tanning facility" means any location, place, area, structure, or business that provides persons access to any ultraviolet tanning device for a fee.

(2) "Ultraviolet tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between two hundred and four hundred nanometers used for tanning of the skin including, but not limited to, a sunlamp, tanning booth, or tanning bed. An ultraviolet tanning device does not mean a phototherapy device which may be used by or under the direct supervision of a licensed physician who is trained in the use of phototherapy devices. [2014 c 87 § 1.]

18.370.020 Minors prohibited—Proof of age. (1) Persons under eighteen years of age are prohibited from using an ultraviolet tanning device without a written prescription for ultraviolet radiation treatment from a physician licensed under chapter 18.57 or 18.71 RCW.

(2) Proof of age must be satisfied with a driver's license or other government-issued identification containing the date of birth and a photograph of the individual. [2014 c 87 § 2.]

18.370.030 Penalty. The owner of a tanning facility that violates this chapter is liable for a civil penalty not to exceed two hundred fifty dollars per violation in addition to any other penalty established by law. [2014 c 87 § 3.]

Chapter 18.380 RCW APPLIED BEHAVIOR ANALYSIS

Sections

18.380.010	Definitions.
18.380.020	Licensure or certification required—Unauthorized practices.
18.380.030	Exemptions.
18.380.040	Applied behavior analysis advisory committee.
18.380.050	Licensure or certification requirements.
18.380.060	Licensing or certification—Applications—Fees.
18.380.070	License or certification—Renewal.
18.380.080	Temporary license.
18.380.090	License—Reciprocity.
18.380.100	Uniform disciplinary act—Application.
18.380.110	Authority of secretary.

18.380.010 Definitions. (Effective July 1, 2017.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certified behavior technician" means a paraprofessional who implements a behavior analysis treatment plan

under the close, ongoing supervision of a licensed behavior analyst or a licensed assistant behavior analyst, but who does not design or supervise the implementation of a behavior analysis treatment plan.

(2) "Committee" means the Washington state applied behavior analysis advisory committee.

(3) "Department" means the department of health.

(4) "Licensed assistant behavior analyst" means an individual who is licensed under this chapter to engage in the practice of applied behavior analysis under the supervision of a licensed behavior analyst.

(5) "Licensed behavior analyst" means an individual who is licensed under this chapter to engage in the practice of applied behavior analysis.

(6)(a) "Practice of applied behavior analysis" means:

(i) The design, implementation, and evaluation of instructional and environmental modifications based on scientific research and the direct observation and measurement of behavior and the environment to produce socially significant improvements in human behavior;

(ii) Empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis; and

(iii) Utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to assist individuals in developing new behaviors, increasing or decreasing existing behaviors, and emitting behaviors under specific environmental conditions.

(b) "Practice of applied behavior analysis" does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling as treatment modalities. It also does not include the use of behavioral techniques described in (a)(iii) of this subsection alone as treatment modalities.

(7) "Secretary" means the secretary of the department of health. [2015 c 118 § 1.]

Effective date—2015 c 118: "Except for sections 4 and 16 of this act, this act takes effect July 1, 2017." [2015 c 118 § 15.]

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.020 Licensure or certification required—Unauthorized practices. (Effective July 1, 2017.) (1)(a) Except as provided in RCW 18.380.030, no person may engage in the practice of applied behavior analysis unless he or she holds a license or a temporary license under this chapter. The use of behavioral techniques described in RCW 18.380.010(6)(a)(iii) alone does not constitute the practice of applied behavior analysis.

(b) A person not licensed under this chapter may not represent himself or herself as a "licensed behavior analyst" or a "licensed assistant behavior analyst."

(2) Except as provided in RCW 18.380.030, no person may practice as a certified behavior technician in this state without having a certification issued by the secretary. A person not certified under this chapter may not represent himself or herself as a "certified behavior technician." [2015 c 118 § 2.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.030 Exemptions. (Effective July 1, 2017.)

Nothing in this chapter may be construed to prohibit or restrict:

(1) An individual who holds a credential issued by this state, other than as a licensed behavior analyst, a licensed assistant behavior analyst, or a certified behavior technician, to engage in the practice of that occupation or profession without obtaining an additional credential from the state, so long as the practice is within that profession's or occupation's scope of practice;

(2) A person employed as a behavior analyst, assistant behavior analyst, or behavior technician by the government of the United States if the person provides behavior analysis services solely under the direction or control of the agency by which the person is employed;

(3) An employee of a school district, charter school, or private school approved under chapter 28A.195 RCW in the performance of his or her regular duties of employment, so long as the employee does not offer behavior analytic services to any person or entity other than the school employer and does not accept remuneration for providing behavior analytic services other than the remuneration he or she receives from the school employer;

(4) The practice of applied behavior analysis by a matriculated college or university student if he or she: (a) Participates in a defined course, internship, practicum, or program of study; (b) is supervised by college or university faculty or a licensed behavior analyst; and (c) uses a title that clearly indicates trainee status, such as "behavior analysis student," "behavior analysis intern," or "behavior analysis trainee";

(5) The practice of applied behavior analysis by an individual pursuing supervised experiential training to meet eligibility requirements for licensure under this chapter or national certification in behavior analysis, so long as the training is supervised by a licensed behavior analyst who meets any additional requirements established by the secretary or by a professional who meets supervisor requirements determined by a national certifying entity;

(6) Implementation of a behavior analysis treatment plan by a family member or legal guardian of a recipient of behavior analysis services, as defined in rule, so long as the family member or legal guardian is under the supervision of a licensed behavior analyst or a licensed assistant behavior analyst;

(7) The activities of a behavior analyst who practices with nonhumans including, but not limited to, animal trainers and applied animal behaviorists; or

(8) The activities of a behavior analyst who provides general behavior analysis services to organizations so long as those services are for the benefit of the organization and do not involve direct services to individuals. [2015 c 118 § 3.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.040 Applied behavior analysis advisory committee. (1) The Washington state applied behavior analysis advisory committee is established.

(2) The committee consists of the following five members:

(a) Three members who are licensed behavior analysts or, for the initial members of the committee, certified by the

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national behavior analyst certification board as either a board certified behavior analyst or a board certified behavior analyst - doctoral;

(b) One member who is a licensed assistant behavior analyst or, for the initial members of the committee, certified by the national behavior analyst certification board as a board certified assistant behavior analyst; and

(c) One member of the public who is not a member of any other health care licensing board or commission and does not have a material or financial interest in the rendering of services regulated under this chapter. The public member may be the parent or guardian of a recipient of behavior analysis services.

(3) The secretary shall appoint the committee members. Committee members serve at the pleasure of the secretary. The secretary may appoint members of the initial committee to staggered terms of one to four years, and thereafter all terms are for four years. No member may serve more than two consecutive terms.

(4) It is recommended that one of the three licensed behavior analysts appointed to the committee also has an additional mental health license, such as a psychologist.

(5) The committee shall elect officers each year. The committee shall meet at least twice each year and may hold additional meetings as called by the chair. A majority of the committee appointed and serving constitutes a quorum.

(6) The secretary shall consult with the committee in determining the qualifications for licensure or certification under RCW 18.380.050.

(7) Committee members must be compensated in accordance with RCW 43.03.240. Members must be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060. [2015 c 118 § 4.]

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.050 Licensure or certification requirements. (Effective July 1, 2017.) (1) The secretary shall issue a license to an applicant who submits a completed application, pays the appropriate fees, and meets the following requirements:

(a) For a licensed behavior analyst:

(i) Graduation from a master's or doctorate degree program in behavior analysis or other natural science, education, human services, engineering, medicine, or field related to behavior analysis approved by the secretary;

(ii) Completion of a minimum of two hundred twenty-five classroom hours at graduate level instruction in specific behavior analysis topics, as determined in rule;

(iii) Successful completion of a supervised experience requirement, consisting of a minimum of one thousand five hundred hours, or an alternative approved by the secretary by rule; and

(iv) Successful completion of an examination approved by the secretary;

(b) For a licensed assistant behavior analyst:

(i) Graduation from a bachelor's degree program approved by the secretary;

(ii) Completion of one hundred thirty-five classroom hours of instruction in specific behavior analysis topics, as determined by the secretary in rule; and

(iii) Successful completion of a supervised experience requirement, consisting of a minimum of one thousand hours, or an alternative approved by the secretary by rule;

(c) For a certified behavior technician:

(i) Successful completion of a training program of at least forty hours that is approved by the secretary; and

(ii) Any other requirements determined by the secretary in rule;

(d) Demonstrates good moral character;

(e) Has not engaged in unprofessional conduct as defined in RCW 18.130.180;

(f) Is not currently subject to any disciplinary proceedings; and

(g) Is not unable to practice with reasonable skill and safety as defined in RCW 18.130.170.

(2) In addition, an applicant for an assistant behavior analyst license or a behavior technician certification must provide proof of ongoing supervision by a licensed behavior analyst.

(3) The secretary may accept certification by a national accredited professional credentialing entity in lieu of the specific requirements identified in subsection (1)(a) through (c) of this section.

(4) A license or certification issued under this section is valid for a period of two years. [2015 c 118 § 5.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.060 Licensing or certification—Applications—Fees. (Effective July 1, 2017.) Applications for licensing or certification must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for licensing or certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee must accompany the application. [2015 c 118 § 6.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.070 License or certification—Renewal. (Effective July 1, 2017.) (1) The secretary shall establish by rule the requirements for renewal of a license or certification, but may not increase the licensure or certification requirements provided in this chapter. The secretary shall establish administrative procedures, administrative requirements, and fees for license and certification periods and renewals as provided in RCW 43.70.250 and 43.70.280.

(2) Failure to renew the license or certification invalidates the license or certification and all privileges granted by the license or certification. If a license or certification has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the secretary by completing continuing competency requirements or meeting other standards determined by the secretary. [2015 c 118 § 7.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.080 Temporary license. (Effective July 1, 2017.) The secretary may grant a temporary license to a person who does not reside in this state if he or she: (1) Is licensed to practice applied behavior analysis in another state or province of Canada; or (2) meets other qualifications established by the secretary. A temporary license holder may only practice applied behavior analysis for a limited period of time, as defined by the secretary. [2015 c 118 § 8.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.090 License—Reciprocity. (Effective July 1, 2017.) An applicant holding a license in another state or a province of Canada may be licensed to practice in this state if the secretary determines that the licensing standards of the other state or province are substantially equivalent to the licensing standards in this chapter. [2015 c 118 § 9.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.100 Uniform disciplinary act—Application. (Effective July 1, 2017.) The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of a license or certification, and the discipline of persons licensed or certified under this chapter. [2015 c 118 § 10.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

18.380.110 Authority of secretary. (Effective July 1, 2017.) The secretary, in consultation with the committee, may adopt rules under chapter 34.05 RCW as necessary to implement this chapter, including rules:

(1) Establishing continuing competency as a condition of license or certification renewal;

(2) Establishing standards for delegation and supervision of licensed assistant behavior analysts and certified behavior technicians; and

(3) Defining the tasks that a certified behavior technician may perform. [2015 c 118 § 11.]

Rules—2015 c 118: "The secretary of health may adopt such rules as authorized by this act to ensure that the sections in this act are implemented on their effective dates." [2015 c 118 § 16.]

Effective date—2015 c 118: See note following RCW 18.380.010.

Chapter 18.390 RCW CONTINUING CARE RETIREMENT COMMUNITIES

Sections

18.390.010	Definitions.
18.390.020	Requirement to register.
18.390.030	Application for registration—Required materials—Issuance—Validity period—Transferability—Public records act exemption.
18.390.040	Department of social and health services—Duties—Fees—Effect of registration activities.
18.390.050	Use of titles—Registration required.
18.390.060	Mandatory disclosures to prospective residents.
18.390.070	Inspections by prospective residents—Resident expectations—Right to file complaint.
18.390.080	Violations—Application of consumer protection act—Notice of complaints—Attorney general enforcement.
18.390.090	Scope of chapter—Limitation.
18.390.900	Prospective application of chapter.

18.390.901 Effective date—2016 c 183.

18.390.010 Definitions. (*Effective July 1, 2017.*) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Application fee" means a fee charged to an individual or individuals prior to the execution of a residency agreement, apart from an entrance fee.

(2) "Care" means nursing, medical, or other health-related services, protection or supervision, assistance with activities of daily living, or any combination of those services.

(3) "Continuing care" means directly providing or indirectly making available, upon payment of an entrance fee and under a residency agreement, housing and care for a period of greater than one year.

(4) "Continuing care retirement community" means an entity that agrees to provide continuing care to a resident under a residency agreement. "Continuing care retirement community" does not include an assisted living facility licensed under chapter 18.20 RCW that does not directly, or through a contractual arrangement with a separately owned and incorporated skilled nursing facility, offer or provide services under chapter 74.42 RCW.

(5) "Department" means the department of social and health services.

(6) "Entrance fee" means an initial or deferred transfer to a continuing care retirement community of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of one or more residents in a continuing care retirement community. "Entrance fee" does not include deposits of ten thousand dollars or less or any amount that is based on rental or lease payments of one month or more.

(7) "Prospective resident" means a person who has completed an application for admission to a continuing care retirement community and makes a refundable deposit to reserve a unit, excluding applicable administrative fees.

(8) "Residency agreement" means a contract between a continuing care retirement community and a resident for the provision of continuing care for a period of greater than one year.

(9) "Resident" means a person who enters into a residency agreement with a continuing care retirement community or who is designated in a residency agreement to be a person being provided with continuing care. [2016 c 183 § 1.]

18.390.020 Requirement to register. (*Effective July 1, 2017.*) A person or entity must be registered by the department under this chapter prior to:

- (1) Operating a continuing care retirement community;
- (2) Entering into a residency agreement with a prospective resident;
- (3) Soliciting a prospective resident to pay an application fee or executing a residency agreement; or
- (4) Collecting an entrance fee. [2016 c 183 § 2.]

18.390.030 Application for registration—Required materials—Issuance—Validity period—Transferability—Public records act exemption. (*Effective July 1,*

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2017.) (1) An applicant for a registration as a continuing care retirement community must submit the following materials to the department:

(a) A written application to the department providing all necessary information on a form provided by the department;

(b) Information about the licensed assisted living facility component of the continuing care retirement community and, if the continuing care retirement community operates a nursing home, information about that component;

(c) Copies of any residency agreements that the continuing care retirement community intends to use for the certification period;

(d) A copy of the disclosure statement that includes current information required by RCW 18.390.060;

(e)(i) Except as provided in (e)(ii) of this subsection, copies of audited financial statements for the two most recent fiscal years. The audited financial statement for the most current period may not have been prepared more than eighteen months prior to the date that the continuing care retirement community applied for its current registration;

(ii) If the continuing care retirement community:

(A) Has obtained financing, but has been in operation less than two years, a copy of the audited financial statement for the most current period, if available, and an independent accountant's report opinion letter that has evaluated the financial feasibility of the continuing care retirement community; or

(B) Has not obtained financing, a summary of the actuarial analysis for the new continuing care retirement community stating that the continuing care retirement community is in satisfactory actuarial balance;

(f) An attestation by a management representative of the continuing care retirement community that the continuing care retirement community is in compliance with the disclosure notification requirements of RCW 18.390.060; and

(g) Payment of any registration fees associated with the department's cost of registering continuing care retirement communities.

(2) The department shall base its decision to issue a registration on the completeness of the application. If an application is incomplete, the department shall inform the applicant and give the applicant an opportunity to supplement its submission. An applicant may appeal a decision of the department to deny an application for registration.

(3) The department shall issue the registration within sixty days of the receipt of a complete application, payment of fees, submission of disclosures, residency agreements, and the attestation. The department's failure to timely issue a registration may not cause a delay in the change of ownership and ongoing operation of the continuing care retirement community.

(4) Registration is valid for two years.

(5) Registration is not transferable.

(6) Materials submitted pursuant to this section are not subject to disclosure under the public records act, chapter 42.56 RCW. [2016 c 183 § 3.]

18.390.040 Department of social and health services—Duties—Fees—Effect of registration activities. (*Effective July 1, 2017.*) (1) The department shall:

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(a) Register an entity that submits a complete application that includes all of the materials required in RCW 18.390.030;

(b) Review the disclosure statements submitted by applicants for an initial or renewal registration to operate a continuing care retirement community for completeness;

(c) Establish and collect a fee that is sufficient to cover the department's costs associated with administering the requirements of this chapter; and

(d) Create and maintain an online listing that is readily available to the public of the names and addresses of continuing care retirement communities that are registered with the department.

(2) The department's registration activities consist of reviewing an application for completeness and do not signify that the department has otherwise issued a certification or license to the continuing care retirement community or any of its component parts. [2016 c 183 § 4.]

18.390.050 Use of titles—Registration required. (*Effective July 1, 2017.*) An entity that is not registered with the department may not represent itself, or refer to itself in advertising and marketing materials as a "registered continuing care retirement community" or "continuing care retirement community," as defined by this chapter. [2016 c 183 § 5.]

18.390.060 Mandatory disclosures to prospective residents. (*Effective July 1, 2017.*) (1) A continuing care retirement community must prepare a disclosure statement that includes the following information:

(a) The names of the individual or individuals who constitute the continuing care retirement community and each of the officers, directors, trustees, or managing general partners of the legal entity and a description of each individual's duties on behalf of the legal entity;

(b) The business address of the continuing care retirement community;

(c) The type of ownership, the names of the continuing care retirement community's owner and operator, and the names of any affiliated facilities;

(d) The names and business addresses of any individual having any more than a ten percent direct or indirect ownership or beneficial interest in the continuing care retirement community, the percentage of the direct or indirect ownership or beneficial interest, and a description of each individual's interest in or occupation with the continuing care retirement community;

(e) The location and general description of the continuing care retirement community, including:

(i) The year the continuing care retirement community opened;

(ii) The location and number of living units, licensed assisted living facility beds, and nursing beds considered part of the continuing care retirement community;

(iii) The average annual occupancy rate for the prior three fiscal years for each type of unit or bed; and

(iv) Any other care facilities owned or operated by the owner of the continuing care retirement community;

(f) An explanation of the continuing care retirement community's policy regarding placement in off-campus

assisted living facilities and nursing homes and the payment responsibilities of the continuing care retirement community and the resident in the event of off-campus placement;

(g) The number of residents who were placed off-site in the previous three years for assisted living and nursing services due to the lack of available capacity at the continuing care retirement community;

(h) An explanation of all types of fees charged by the continuing care retirement community, how each type of fee is determined, current ranges for each type of fee, and refund policies for each type of fee;

(i) Statements describing the continuing care retirement community's policy for notifying residents of fee increases, including the amount of prior notification that is provided;

(j) Statements describing the continuing care retirement community's policy related to changes in levels of care and any associated fees;

(k) Statements describing the continuing care retirement community's policy for the termination of a contract, including the return of any fees or deposits pursuant to the residency agreement;

(l) A description of services provided or proposed to be provided by the continuing care retirement community under its residency agreements, including:

(i) The extent to which care, long-term care, or health-related services are provided. If the services are provided at a facility that is not certified as part of the continuing care retirement community's campus, the disclosure statement must identify the location where the services are provided and any additional fees associated with the services; and

(ii) The services made available by the continuing care retirement community for an additional charge; and

(m)(i) The continuing care retirement community's two most recent annual audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant. The most recently audited financial statement may not have been prepared more than eighteen months prior to the date that the continuing care retirement community applied for its current registration; or

(ii) If the continuing care retirement community is new and:

(A) Has obtained financing, but does not have two years of audited financial statements as required under (m)(i) of this subsection, an independent accountant's report opinion letter that has evaluated the financial feasibility of the continuing care retirement community; or

(B) Has not obtained financing, a summary of the actuarial analysis for the new continuing care retirement community stating that the continuing care retirement community is in satisfactory actuarial balance.

(2) The disclosure statement must be written in understandable language and a clear format.

(3) Prior to entering into a residency agreement with, or accepting an entrance fee from, any prospective resident, a continuing care retirement community must deliver to the prospective resident a copy of the disclosure statement most recently submitted to the department. [2016 c 183 § 6.]

18.390.070 Inspections by prospective residents—Resident expectations—Right to file complaint. (*Effective July 1, 2017.*) (1) A prospective resident may visit each of

the different care levels of the continuing care retirement community, assisted living facility, and nursing home, and may inspect the most recent inspection reports and findings of complaint investigations related to the assisted living and nursing home components covering a period of not less than two years, as available, prior to signing a residency agreement.

(2) All residents of a continuing care retirement community in a living unit that is not used exclusively for assisted living or nursing services have the following expectations:

(a) Transparency regarding the financial stability of the provider operating the facility;

(b) Timely notifications of developments affecting the facility, including ownership changes of the provider operating the facility, a change in the financial condition of the provider operating the facility, and construction and renovation at the facility. The management of the continuing care retirement community may deem certain information to be confidential if it is of a sensitive nature such that disclosure of the information would materially harm the position of the continuing care retirement community;

(c) Reasonable accommodations for persons with disabilities;

(d) The opportunity to participate freely in the operation of independent resident organizations and associations;

(e) The opportunity to seek independent counsel review of all contracts, including residency agreements, prior to executing the residency agreement; and

(f) The assurance that all requests for donations, contributions, and gifts, when made by residents to the continuing care retirement community, are voluntary and may not be used as a condition of residency.

(3) The continuing care retirement community shall:

(a) Provide a copy of the expectations specified in this section to each prospective resident prior to signing a residency agreement; and

(b) Make copies of the expectations specified in this section publicly available in areas accessible to the independent residents and visitors. The copies of the expectations must also state that independent residents have the right, as an affected party, to file a complaint with the attorney general for violations of this chapter that may constitute a violation of the consumer protection act and contain information explaining how and where a complaint may be filed. [2016 c 183 § 7.]

18.390.080 Violations—Application of consumer protection act—Notice of complaints—Attorney general enforcement. (Effective July 1, 2017.) (1) The legislature finds that the violation of the title protection requirements of RCW 18.390.050, the failure of a continuing care retirement community to register with the department under RCW 18.390.020, the failure of a continuing care retirement community to comply with the disclosure statement delivery and content requirements under RCW 18.390.060, and the failure of a continuing care retirement community to comply with the resident expectations established under RCW 18.390.070 are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of the title protection requirements under RCW 18.390.050, registration requirement under RCW

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18.390.020, the disclosure statement delivery and content requirements under RCW 18.390.060, and the resident expectations requirements under RCW 18.390.070 are not reasonable in relation to the development and preservation of business and are an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) The attorney general shall provide notice to the management of the continuing care retirement community of submitted complaints including the name of the complainant to allow the community to take corrective action. Except for violations of the title protection requirements of RCW 18.390.050 and the failure of a continuing care retirement community to register with the department under RCW 18.390.020, the attorney general shall limit its application of the consumer protection act in subsection (1) of this section to those cases in which a pattern of complaints, submitted by affected parties, or other activity that, when considered together, demonstrate a pattern of similar conduct that, without enforcement, likely establishes an unfair or deceptive act in trade or commerce and an unfair method of competition. [2016 c 183 § 8.]

18.390.090 Scope of chapter—Limitation. (Effective July 1, 2017.) Nothing in this chapter:

(1) Affects any of the requirements and standards associated with a license to operate an assisted living facility under chapter 18.20 RCW or a nursing home under chapter 18.51 RCW; and

(2) Applies to any of the provisions of chapter 74.46 or 70.38 RCW. [2016 c 183 § 9.]

18.390.900 Prospective application of chapter. (Effective July 1, 2017.) The provisions of this chapter apply prospectively to acts and omissions that occur after July 1, 2017. [2016 c 183 § 10.]

18.390.901 Effective date—2016 c 183. This act takes effect July 1, 2017. [2016 c 183 § 11.]

