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HOUSE BILL 2078

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Dyer and Thibaudeau

Read first time . Referred to Committee on .

1 AN ACT Relating to respiratory care; amending RCW 18.89.010,  
2 18.89.020, 18.89.040, 18.89.050, 18.89.060, 18.89.080, 18.89.090,  
3 18.89.110, 18.89.120, and 18.89.140; reenacting and amending RCW  
4 18.120.020 and 18.130.040; adding a new section to chapter 18.89 RCW;  
5 repealing RCW 18.89.130 and 18.89.900; providing an effective date; and  
6 declaring an emergency.

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

8 **Sec. 1.** RCW 18.89.010 and 1987 c 415 s 1 are each amended to read  
9 as follows:

10 The legislature finds that ~~((it is necessary to regulate the~~  
11 ~~practice of respiratory care at the level of certification))~~ in order  
12 to ~~((protect the public health and safety))~~ safeguard life, health, and  
13 to promote public welfare, a person practicing or offering to practice  
14 respiratory care as a respiratory care practitioner in this state shall  
15 be required to submit evidence that he or she is qualified to practice,  
16 and shall be licensed as provided. The settings for these services may  
17 include, health facilities licensed in this state, clinics, home care,  
18 home health agencies, physicians' offices, and public or community  
19 health services. The respiratory care practitioner is directly

1 accountable and responsible to the individual consumer for the quality  
2 of respiratory care rendered. Nothing in this chapter shall be  
3 construed to require that individual or group policies or contracts of  
4 an insurance carrier, health care service contractor, or health  
5 maintenance organization provide benefits or coverage for services and  
6 supplies provided by a person certified under this chapter.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.89 RCW  
8 to read as follows:

9 After the effective date of this act, it shall be unlawful for a  
10 person to practice or to offer to practice as a respiratory care  
11 practitioner in this state or to use a title, sign, or device to  
12 indicate that such a person is practicing as a respiratory care  
13 practitioner unless the person has been duly licensed and registered  
14 under the provisions of this chapter.

15 **Sec. 3.** RCW 18.89.020 and 1994 sp.s. c 9 s 511 are each amended to  
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Department" means the department of health.

20 (2) "Secretary" means the secretary of health or the secretary's  
21 designee.

22 (3) "Respiratory care practitioner" means an individual  
23 ((certified)) licensed under this chapter.

24 (4) "Physician" means an individual licensed under chapter 18.57 or  
25 18.71 RCW.

26 ~~((5) "Rural hospital" means a hospital located anywhere in the  
27 state except the following areas:~~

28 ~~(a) The entire counties of Snohomish (including Camano Island),  
29 King, Kitsap, Pierce, Thurston, Clark, and Spokane;~~

30 ~~(b) Areas within a twenty mile radius of an urban area with a  
31 population exceeding thirty thousand persons; and~~

32 ~~(c) Those cities or city clusters located in rural counties but  
33 which for all practical purposes are urban. These areas are  
34 Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima,  
35 Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.)~~

1       **Sec. 4.** RCW 18.89.040 and 1994 sp.s. c 9 s 716 are each amended to  
2 read as follows:

3       A respiratory care practitioner (~~certified~~) licensed under this  
4 chapter is employed in the treatment, management, diagnostic testing,  
5 rehabilitation, and care of patients with deficiencies and  
6 abnormalities which affect the cardiopulmonary system and associated  
7 aspects of other systems, and is under the direct order and under the  
8 qualified medical direction of a physician. The practice of  
9 respiratory care includes, but is not limited to:

10       (1) The use and administration of prescribed medical gases,  
11 exclusive of general anesthesia;

12       (2) The use of air and oxygen administering apparatus;

13       (3) The use of humidification and aerosols;

14       (4) The administration, to the extent of training, of prescribed  
15 pharmacologic agents related to respiratory care;

16       (5) The use of mechanical (~~or~~) ventilatory, hyperbaric, and  
17 physiological (~~ventilatory~~) support;

18       (6) Postural drainage, chest percussion, and vibration;

19       (7) Bronchopulmonary hygiene;

20       (8) Cardiopulmonary resuscitation as it pertains to (~~establishing~~  
21 ~~airways and external cardiac compression~~) advanced cardiac life  
22 support or pediatric advanced life support guidelines;

23       (9) The maintenance of natural and artificial airways and  
24 insertion, without cutting tissues, of artificial airways, as  
25 (~~ordered~~) prescribed by (~~the attending~~) a physician;

26       (10) Diagnostic and monitoring techniques such as the collection  
27 and measurement of cardiorespiratory specimens, volumes, pressures, and  
28 flows; (~~and~~)

29       (11) (~~The drawing and analyzing of~~) The insertion of devices to  
30 draw, analyze, infuse, or monitor pressure in arterial, capillary,  
31 (~~and mixed~~) or venous blood (~~specimens~~) as (~~ordered~~) prescribed  
32 by (~~the attending~~) a physician or an advanced registered nurse  
33 practitioner as authorized by the nursing care quality assurance  
34 commission under chapter 18.79 RCW;

35       (12) Diagnostic monitoring of and therapeutic interventions for  
36 desaturation, ventilatory patterns, and related sleep abnormalities to  
37 aid the physician in diagnosis; and

38       (13) The performance of such additional respiratory care acts  
39 requiring education and training and which are jointly recognized by

1 the medical and respiratory professions as proper to be performed by  
2 respiratory care practitioners licensed under this chapter and which  
3 shall be authorized by the advisory committee for respiratory care  
4 through its rules and regulations.

5 Nothing in this chapter prohibits or restricts:

6 (a) The practice of a profession by individuals who are licensed  
7 under other laws of this state who are performing services within their  
8 authorized scope of practice, that may overlap the services provided by  
9 respiratory care practitioners;

10 (b) The practice of respiratory care by an individual employed by  
11 the government of the United States while the individual is engaged in  
12 the performance of duties prescribed for him or her by the laws and  
13 rules of the United States;

14 (c) The practice of respiratory care by a person pursuing a  
15 supervised course of study leading to a degree or certificate in  
16 respiratory care as a part of an accredited and approved educational  
17 program, if the person is designated by a title that clearly indicates  
18 his or her status as a student or trainee and limited to the extent of  
19 demonstrated proficiency of completed curriculum, and under direct  
20 supervision;

21 (d) The use of the title "respiratory care practitioner" by  
22 registered nurses authorized under chapter 18.88 RCW; or

23 (e) The practice without compensation of respiratory care of a  
24 family member.

25 Nothing in this chapter shall be construed to require that  
26 individual or group policies or contracts of an insurance carrier,  
27 health care service contractor, or health maintenance organization  
28 provide benefits or coverage for services and supplies provided by a  
29 person licensed under this chapter.

30 **Sec. 5.** RCW 18.89.050 and 1994 sp.s. c 9 s 512 are each amended to  
31 read as follows:

32 (1) In addition to any other authority provided by law, the  
33 secretary may:

34 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to  
35 implement this chapter;

36 (b) Set all (~~certification~~) license, examination, and renewal  
37 fees in accordance with RCW 43.70.250;

1 (c) Establish forms and procedures necessary to administer this  
2 chapter;

3 (d) Issue a ((~~certificate~~)) license to any applicant who has met  
4 the education, training, and examination requirements for  
5 ((~~certification~~)) licensure;

6 (e) Hire clerical, administrative, and investigative staff as  
7 needed to implement this chapter and hire individuals ((~~certified~~))  
8 licensed under this chapter to serve as examiners for any practical  
9 examinations;

10 (f) Approve those schools from which graduation will be accepted as  
11 proof of an applicant's eligibility to take the ((~~certification~~))  
12 licensure examination, specifically requiring that applicant's must  
13 have completed programs with two-year curriculum;

14 (g) Prepare, grade, and administer, or determine the nature of, and  
15 supervise the grading and administration of, examinations for  
16 applicants for ((~~certification~~)) licensure;

17 (h) Determine whether alternative methods of training are  
18 equivalent to formal education and establish forms, procedures, and  
19 criteria for evaluation of an applicant's alternative training to  
20 determine the applicant's eligibility to take the examination;

21 (i) Determine which states have legal credentialing requirements  
22 equivalent to those of this state and issue ((~~certificates~~)) licenses  
23 to individuals legally credentialed in those states without  
24 examination;

25 (j) Define and approve any experience requirement for  
26 ((~~certification~~)) licensure; and

27 (k) Appoint members of the profession to serve in an ad hoc  
28 advisory capacity to the secretary in carrying out this chapter. The  
29 members will serve for designated times and provide advice on matters  
30 specifically identified and requested by the secretary. The members  
31 shall be compensated in accordance with RCW 43.03.220 and reimbursed  
32 for travel expenses under RCW 43.03.040 and 43.03.060.

33 (2) The provisions of chapter 18.130 RCW shall govern the issuance  
34 and denial of ((~~certificates, —uncertified~~)) licenses, unlicensed  
35 practice, and the disciplining of persons ((~~certified~~)) licensed under  
36 this chapter. The secretary shall be the disciplining authority under  
37 this chapter.

1       **Sec. 6.** RCW 18.89.060 and 1991 c 3 s 229 are each amended to read  
2 as follows:

3       The secretary shall keep an official record of all proceedings, a  
4 part of which record shall consist of a register of all applicants for  
5 ((certification)) licensure under this chapter, with the result of each  
6 application.

7       **Sec. 7.** RCW 18.89.080 and 1994 sp.s. c 9 s 513 are each amended to  
8 read as follows:

9       The secretary, ad hoc committee members, or individuals acting on  
10 their behalf are immune from suit in any civil action based on any  
11 ((certification)) licensure or disciplinary proceedings, or other  
12 official acts performed in the course of their duties.

13       **Sec. 8.** RCW 18.89.090 and 1991 c 3 s 232 are each amended to read  
14 as follows:

15       The secretary shall issue a ((certificate)) license to any  
16 applicant who demonstrates to the secretary's satisfaction that the  
17 following requirements have been met:

18       (1) Graduation from a school approved by the secretary or  
19 successful completion of alternate training which meets the criteria  
20 established by the secretary;

21       (2) Successful completion of an examination administered or  
22 approved by the secretary;

23       (3) Successful completion of any experience requirement established  
24 by the secretary;

25       (4) Good moral character.

26       In addition, applicants shall be subject to the grounds for denial  
27 or issuance of a conditional ((certificate)) license under chapter  
28 18.130 RCW.

29       A person who meets the qualifications to be admitted to the  
30 examination for ((certification)) licensure as a respiratory care  
31 practitioner may practice as a respiratory care practitioner under the  
32 supervision of a respiratory care practitioner ((certified)) licensed  
33 under this chapter between the date of filing an application for  
34 ((certification)) licensure and the announcement of the results of the  
35 next succeeding examination for ((certification)) licensure if that  
36 person applies for and takes the first examination for which he or she  
37 is eligible.

1 The secretary shall establish by rule what constitutes adequate  
2 proof of meeting the criteria.

3 **Sec. 9.** RCW 18.89.110 and 1991 c 3 s 234 are each amended to read  
4 as follows:

5 (1) The date and location of the examination shall be established  
6 by the secretary. Applicants who have been found by the secretary to  
7 meet the other requirements for (~~certification~~) licensure shall be  
8 scheduled for the next examination following the filing of the  
9 application. However, the applicant shall not be scheduled for any  
10 examination taking place sooner than sixty days after the application  
11 is filed.

12 (2) The secretary shall examine each applicant, by means determined  
13 most effective, on subjects appropriate to the scope of practice. Such  
14 examinations shall be limited to the purpose of determining whether the  
15 applicant possesses the minimum skill and knowledge necessary to  
16 practice competently, and shall meet generally accepted standards of  
17 fairness and validity for (~~certification~~) licensure examinations.

18 (3) All examinations shall be conducted by the secretary, and all  
19 grading of the examinations shall be under fair and wholly impartial  
20 methods.

21 (4) Any applicant who fails to make the required grade in the first  
22 examination is entitled to take up to three subsequent examinations,  
23 upon the prepayment of a fee determined by the secretary as provided in  
24 RCW 43.70.250 for each subsequent examination. Upon failure of four  
25 examinations, the secretary may invalidate the original application and  
26 require such remedial education as is deemed necessary.

27 (5) The secretary may approve an examination prepared and  
28 administered by a private testing agency or association of  
29 credentialing boards for use by an applicant in meeting the  
30 (~~certification~~) licensure requirement.

31 **Sec. 10.** RCW 18.89.120 and 1991 c 3 s 235 are each amended to read  
32 as follows:

33 Applications for (~~certification~~) licensure shall be submitted on  
34 forms provided by the secretary. The secretary may require any  
35 information and documentation which reasonably relates to the need to  
36 determine whether the applicant meets the criteria for  
37 (~~certification~~) licensure provided in this chapter and chapter 18.130

1 RCW. All applications shall be accompanied by a fee determined by the  
2 secretary under RCW 43.70.250.

3 **Sec. 11.** RCW 18.89.140 and 1991 c 3 s 237 are each amended to read  
4 as follows:

5 The secretary shall establish by rule the requirements for  
6 continuing education and fees for renewal of ((certificates)) licenses.  
7 Failure to renew shall invalidate the ((certificate)) license and all  
8 privileges granted by the ((certificate)) license. In the event a  
9 ((certificate)) license has lapsed for a period longer than three  
10 years, the ((certified)) licensed respiratory care practitioner shall  
11 demonstrate competence to the satisfaction of the secretary by  
12 continuing education or under the other standards determined by the  
13 secretary.

14 **Sec. 12.** RCW 18.120.020 and 1995 c 1 s 18 (Initiative Measure No.  
15 607) and 1994 sp.s. c 9 s 718 are each reenacted and amended to read as  
16 follows:

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

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

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

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

35 (4) "Health professions" means and includes the following health  
36 and health-related licensed or regulated professions and occupations:  
37 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic

1 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;  
2 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;  
3 dispensing opticians under chapter 18.34 RCW; hearing aids under  
4 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and  
5 funeral directing under chapter 18.39 RCW; midwifery under chapter  
6 18.50 RCW; nursing home administration under chapter 18.52 RCW;  
7 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter  
8 18.55 RCW; osteopathy and osteopathic medicine and surgery under  
9 chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A  
10 RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine  
11 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;  
12 practical nurses under chapter 18.79 RCW; psychologists under chapter  
13 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational  
14 therapists licensed under chapter 18.59 RCW; respiratory care  
15 practitioners ((certified)) licensed under chapter 18.89 RCW;  
16 veterinarians and animal technicians under chapter 18.92 RCW; health  
17 care assistants under chapter 18.135 RCW; massage practitioners under  
18 chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW;  
19 persons registered or certified under chapter 18.19 RCW; dietitians and  
20 nutritionists certified by chapter 18.138 RCW; radiologic technicians  
21 under chapter 18.84 RCW; and nursing assistants registered or certified  
22 under chapter 18.88A RCW.

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

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

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

36 (8) "Professional license" means an individual, nontransferable  
37 authorization to carry on a health activity based on qualifications  
38 which include: (a) Graduation from an accredited or approved program,

1 and (b) acceptable performance on a qualifying examination or series of  
2 examinations.

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

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

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

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

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

26 **Sec. 13.** RCW 18.130.040 and 1995 c 1 s 19 (Initiative Measure No.  
27 607), 1994 sp.s. c 9 s 603, and 1994 c 17 s 19 are each reenacted and  
28 amended to read as follows:

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

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

36 (i) Dispensing opticians licensed under chapter 18.34 RCW;

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

38 (iii) Midwives licensed under chapter 18.50 RCW;

1 (iv) Ocularists licensed under chapter 18.55 RCW;  
2 (v) Massage operators and businesses licensed under chapter 18.108  
3 RCW;  
4 (vi) Dental hygienists licensed under chapter 18.29 RCW;  
5 (vii) Acupuncturists certified under chapter 18.06 RCW;  
6 (viii) Radiologic technologists certified and x-ray technicians  
7 registered under chapter 18.84 RCW;  
8 (ix) Respiratory care practitioners (~~certified~~) licensed under  
9 chapter 18.89 RCW;  
10 (x) Persons registered or certified under chapter 18.19 RCW;  
11 (xi) Persons registered as nursing pool operators under chapter  
12 18.52C RCW;  
13 (xii) Nursing assistants registered or certified under chapter  
14 18.79 RCW;  
15 (xiii) Health care assistants certified under chapter 18.135 RCW;  
16 (xiv) Dietitians and nutritionists certified under chapter 18.138  
17 RCW;  
18 (xv) Sex offender treatment providers certified under chapter  
19 18.155 RCW; and  
20 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW  
21 18.71.205.  
22 (b) The boards and commissions having authority under this chapter  
23 are as follows:  
24 (i) The podiatric medical board as established in chapter 18.22  
25 RCW;  
26 (ii) The chiropractic quality assurance commission as established  
27 in chapter 18.25 RCW;  
28 (iii) The dental quality assurance commission as established in  
29 chapter 18.32 RCW;  
30 (iv) The board on fitting and dispensing of hearing aids as  
31 established in chapter 18.35 RCW;  
32 (v) The board of examiners for nursing home administrators as  
33 established in chapter 18.52 RCW;  
34 (vi) The optometry board as established in chapter 18.54 RCW  
35 governing licenses issued under chapter 18.53 RCW;  
36 (vii) The board of osteopathic medicine and surgery as established  
37 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
38 18.57A RCW;

1 (viii) The board of pharmacy as established in chapter 18.64 RCW  
2 governing licenses issued under chapters 18.64 and 18.64A RCW;

3 (ix) The medical quality assurance commission as established in  
4 chapter 18.71 RCW governing licenses and registrations issued under  
5 chapters 18.71 and 18.71A RCW;

6 (x) The board of physical therapy as established in chapter 18.74  
7 RCW;

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

10 (xii) The nursing care quality assurance commission as established  
11 in chapter 18.79 RCW governing licenses issued under that chapter;

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

14 (xiv) The veterinary board of governors as established in chapter  
15 18.92 RCW; and

16 (xv) Denturists licensed under chapter 18.30 RCW.

17 (3) In addition to the authority to discipline license holders, the  
18 disciplining authority has the authority to grant or deny licenses  
19 based on the conditions and criteria established in this chapter and  
20 the chapters specified in subsection (2) of this section. This chapter  
21 also governs any investigation, hearing, or proceeding relating to  
22 denial of licensure or issuance of a license conditioned on the  
23 applicant's compliance with an order entered pursuant to RCW 18.130.160  
24 by the disciplining authority.

25 NEW SECTION. **Sec. 14.** The following acts or parts of acts are  
26 each repealed:

27 (1) RCW 18.89.130 and 1991 c 3 s 236 & 1987 c 415 s 14; and

28 (2) RCW 18.89.900 and 1987 c 415 s 20.

29 NEW SECTION. **Sec. 15.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and shall take  
32 effect July 1, 1995.

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