
HOUSE BILL 1536

State of Washington

55th Legislature

1997 Regular Session

By Representatives Backlund, Cody and Dyer

Read first time 01/29/97. Referred to Committee on Health Care.

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, 18.89.140, and 18.120.020; reenacting and
4 amending RCW 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 (1) A respiratory care practitioner (~~(certified)~~) licensed under
4 this chapter is employed in the treatment, management, diagnostic
5 testing, 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))~~ (a) The use and administration of prescribed medical gases,
11 exclusive of general anesthesia;

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

13 ~~((3))~~ (c) The use of humidification and aerosols;

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

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

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

19 ~~((7))~~ (g) Bronchopulmonary hygiene;

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

23 ~~((9))~~ (i) 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))~~ (j) Diagnostic and monitoring techniques such as the
27 collection and measurement of cardiorespiratory specimens, volumes,
28 pressures, and flows; (and

29 ~~(11) The drawing and analyzing of))~~ (k) 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; and

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

38 (2) Nothing in this chapter prohibits or restricts:

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

5 (b) The practice of respiratory care by an individual employed by
6 the government of the United States while the individual is engaged in
7 the performance of duties prescribed for him or her by the laws and
8 rules of the United States;

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

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

18 (e) The practice without compensation of respiratory care of a
19 family member.

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

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

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

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

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

33 (c) Establish forms and procedures necessary to administer this
34 chapter;

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

1 (e) Hire clerical, administrative, and investigative staff as
2 needed to implement this chapter and hire individuals ((certified))
3 licensed under this chapter to serve as examiners for any practical
4 examinations;

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

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

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

16 (i) Determine which states have legal credentialing requirements
17 equivalent to those of this state and issue ((certificates)) licenses
18 to individuals legally credentialed in those states without
19 examination;

20 (j) Define and approve any experience requirement for
21 ((certification)) licensure; and

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

28 (2) The provisions of chapter 18.130 RCW shall govern the issuance
29 and denial of ((certificates, —uncertified)) licenses, unlicensed
30 practice, and the disciplining of persons ((certified)) licensed under
31 this chapter. The secretary shall be the disciplining authority under
32 this chapter.

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

35 The secretary shall keep an official record of all proceedings, a
36 part of which record shall consist of a register of all applicants for
37 ((certification)) licensure under this chapter, with the result of each
38 application.

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

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

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

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

12 (1) Graduation from a school approved by the secretary or
13 successful completion of alternate training which meets the criteria
14 established by the secretary;

15 (2) Successful completion of an examination administered or
16 approved by the secretary;

17 (3) Successful completion of any experience requirement established
18 by the secretary;

19 (4) Good moral character.

20 In addition, applicants shall be subject to the grounds for denial
21 or issuance of a conditional ((certificate)) license under chapter
22 18.130 RCW.

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

32 The secretary shall establish by rule what constitutes adequate
33 proof of meeting the criteria.

34 **Sec. 9.** RCW 18.89.110 and 1996 c 191 s 76 are each amended to read
35 as follows:

36 (1) The date and location of the examination shall be established
37 by the secretary. Applicants who have been found by the secretary to

1 meet the other requirements for ((~~certification~~)) licensure shall be
2 scheduled for the next examination following the filing of the
3 application. However, the applicant shall not be scheduled for any
4 examination taking place sooner than sixty days after the application
5 is filed.

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

12 (3) All examinations shall be conducted by the secretary, and all
13 grading of the examinations shall be under fair and wholly impartial
14 methods.

15 (4) Any applicant who fails to make the required grade in the first
16 examination is entitled to take up to three subsequent examinations,
17 upon compliance with administrative procedures, administrative
18 requirements, and fees determined by the secretary under RCW 43.70.250
19 and 43.70.280 and such remedial education as is deemed necessary.

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

24 **Sec. 10.** RCW 18.89.120 and 1996 c 191 s 77 are each amended to
25 read as follows:

26 Applications for ((~~certification~~)) licensure shall be submitted on
27 forms provided by the secretary. The secretary may require any
28 information and documentation which reasonably relates to the need to
29 determine whether the applicant meets the criteria for
30 ((~~certification~~)) licensure provided in this chapter and chapter 18.130
31 RCW. All applicants shall comply with administrative procedures,
32 administrative requirements, and fees determined by the secretary under
33 RCW 43.70.250 and 43.70.280.

34 **Sec. 11.** RCW 18.89.140 and 1996 c 191 s 78 are each amended to
35 read as follows:

36 ((~~Certificates~~)) Licenses shall be renewed according to
37 administrative procedures, administrative requirements, continuing

1 education requirements, and fees determined by the secretary under RCW
2 43.70.250 and 43.70.280.

3 **Sec. 12.** RCW 18.120.020 and 1996 c 178 s 9 are each amended to
4 read as follows:

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

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

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

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

23 (4) "Health professions" means and includes the following health
24 and health-related licensed or regulated professions and occupations:
25 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
26 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
27 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
28 dispensing opticians under chapter 18.34 RCW; hearing ~~((aids))~~
29 instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A
30 RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery
31 under chapter 18.50 RCW; nursing home administration under chapter
32 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists
33 under chapter 18.55 RCW; osteopathic medicine and surgery under
34 chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A
35 RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine
36 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
37 practical nurses under chapter 18.79 RCW; psychologists under chapter
38 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational

1 therapists licensed under chapter 18.59 RCW; respiratory care
2 practitioners ((certified)) licensed under chapter 18.89 RCW;
3 veterinarians and animal technicians under chapter 18.92 RCW; health
4 care assistants under chapter 18.135 RCW; massage practitioners under
5 chapter 18.108 RCW; acupuncturists licensed under chapter 18.06 RCW;
6 persons registered or certified under chapter 18.19 RCW; dietitians and
7 nutritionists certified by chapter 18.138 RCW; radiologic technicians
8 under chapter 18.84 RCW; and nursing assistants registered or certified
9 under chapter 18.88A RCW.

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

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

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

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

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

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

37 (11) "Registration" means the formal notification which, prior to
38 rendering services, a practitioner shall submit to a state agency
39 setting forth the name and address of the practitioner; the location,

1 nature and operation of the health activity to be practiced; and, if
2 required by the regulatory entity, a description of the service to be
3 provided.

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

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

12 **Sec. 13.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
13 each reenacted and amended to read as follows:

14 (1) This chapter applies only to the secretary and the boards and
15 commissions having jurisdiction in relation to the professions licensed
16 under the chapters specified in this section. This chapter does not
17 apply to any business or profession not licensed under the chapters
18 specified in this section.

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

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

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

23 (iii) Midwives licensed under chapter 18.50 RCW;

24 (iv) Ocularists licensed under chapter 18.55 RCW;

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

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

28 (vii) Acupuncturists licensed under chapter 18.06 RCW;

29 (viii) Radiologic technologists certified and X-ray technicians
30 registered under chapter 18.84 RCW;

31 (ix) Respiratory care practitioners (~~certified~~) licensed under
32 chapter 18.89 RCW;

33 (x) Persons registered or certified under chapter 18.19 RCW;

34 (xi) Persons registered as nursing pool operators under chapter
35 18.52C RCW;

36 (xii) Nursing assistants registered or certified under chapter
37 18.79 RCW;

38 (xiii) Health care assistants certified under chapter 18.135 RCW;

1 (xiv) Dietitians and nutritionists certified under chapter 18.138
2 RCW;

3 (xv) Sex offender treatment providers certified under chapter
4 18.155 RCW;

5 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
6 18.71.205;

7 (xvii) Persons registered as adult family home providers and
8 resident managers under RCW 18.48.020; and

9 (xviii) Denturists licensed under chapter 18.30 RCW.

10 (b) The boards and commissions having authority under this chapter
11 are as follows:

12 (i) The podiatric medical board as established in chapter 18.22
13 RCW;

14 (ii) The chiropractic quality assurance commission as established
15 in chapter 18.25 RCW;

16 (iii) The dental quality assurance commission as established in
17 chapter 18.32 RCW;

18 (iv) The board of hearing and speech as established in chapter
19 18.35 RCW;

20 (v) The board of examiners for nursing home administrators as
21 established in chapter 18.52 RCW;

22 (vi) The optometry board as established in chapter 18.54 RCW
23 governing licenses issued under chapter 18.53 RCW;

24 (vii) The board of osteopathic medicine and surgery as established
25 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
26 18.57A RCW;

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

29 (ix) The medical quality assurance commission as established in
30 chapter 18.71 RCW governing licenses and registrations issued under
31 chapters 18.71 and 18.71A RCW;

32 (x) The board of physical therapy as established in chapter 18.74
33 RCW;

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

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

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

1 (xiv) The veterinary board of governors as established in chapter
2 18.92 RCW.

3 (3) In addition to the authority to discipline license holders, the
4 disciplining authority has the authority to grant or deny licenses
5 based on the conditions and criteria established in this chapter and
6 the chapters specified in subsection (2) of this section. This chapter
7 also governs any investigation, hearing, or proceeding relating to
8 denial of licensure or issuance of a license conditioned on the
9 applicant's compliance with an order entered pursuant to RCW 18.130.160
10 by the disciplining authority.

11 (4) All disciplining authorities shall adopt procedures to ensure
12 substantially consistent application of this chapter, the Uniform
13 Disciplinary Act, among the disciplining authorities listed in
14 subsection (2) of this section.

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

- 17 (1) RCW 18.89.130 and 1991 c 3 s 236 & 1987 c 415 s 14; and
18 (2) RCW 18.89.900 and 1987 c 415 s 20.

19 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 July 1, 1997.

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