
HOUSE BILL 2212

State of Washington

55th Legislature

1997 Regular Session

By Representatives Hankins, Cody, Cooke, Veloria, Cairnes, Murray, Mulliken, L. Thomas, Quall, Boldt, Delvin, Clements, Poulsen, Radcliff, Mastin, Chopp, Appelwick, Benson, Wensman, Hatfield, Tokuda, Buck, Sterk, Anderson, Kastama, Blalock, Sheahan, Koster, Carrell, Carlson, Conway, Sullivan, Thompson, Wood, Kenney, Butler, Cole, Cooper, Kessler, Scott, Regala, Romero, Costa, Dickerson, Keiser, Gombosky, Doumit, McMorris, Honeyford, Dunshee, B. Thomas, Johnson, Chandler, Hickel, O'Brien, Alexander, Talcott, Sherstad, Mielke, Fisher, Huff, D. Schmidt, Mason, D. Sommers, Ogden, Schoesler, Van Luven, Morris, Crouse, McDonald, Mitchell, DeBolt, Pennington, Reams, Sump, Lantz, Smith, Linville, Ballasiotes and Grant

Read first time 02/26/97. Referred to Committee on Health Care.

1 AN ACT Relating to authorizing optometrists to use and prescribe
2 approved drugs for diagnostic or therapeutic purposes without
3 limitation upon the methods of delivery in the practice of optometry;
4 and amending RCW 18.53.010, 18.53.140, 69.41.030, and 69.50.101.

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

6 **Sec. 1.** RCW 18.53.010 and 1989 c 36 s 1 are each amended to read
7 as follows:

8 (1) The practice of optometry is defined as the examination of the
9 human eye, the examination and ascertaining any defects of the human
10 vision system and the analysis of the process of vision. The practice
11 of optometry may include, but not necessarily be limited to, the
12 following:

13 (a) The employment of any objective or subjective means or method
14 including the use of drugs (~~((topically applied to the eye))~~) for
15 diagnostic (~~((and))~~) or therapeutic purposes by those licensed under this
16 chapter and who meet the requirements of subsections (2) and (3) of
17 this section, and the use of any diagnostic instruments or devices for
18 the examination or analysis of the human vision system, the measurement

1 of the powers or range of human vision, or the determination of the
2 refractive powers of the human eye or its functions in general; and

3 (b) The prescription and fitting of lenses, prisms, therapeutic or
4 refractive contact lenses and the adaption or adjustment of frames and
5 lenses used in connection therewith; and

6 (c) The prescription and provision of visual therapy, therapeutic
7 aids and other optical devices, and the treatment with (~~topically~~
8 ~~applied~~) drugs by those licensed under this chapter and who meet the
9 requirements of subsections (2) and (3) of this section; and

10 (d) The ascertainment of the perceptive, neural, muscular or
11 pathological condition of the visual system; and

12 (e) The adaptation of prosthetic eyes.

13 (2) Those persons using drugs for diagnostic purposes in the
14 practice of optometry shall have a minimum of sixty hours of didactic
15 and clinical instruction in general and ocular pharmacology as applied
16 to optometry, and for administering topically applied drugs for
17 therapeutic purposes, an additional minimum of seventy-five hours of
18 didactic and clinical instruction, and for administering or prescribing
19 for therapeutic purposes any drug to be administered orally, by
20 injection, or by any other recognized method of delivery, an additional
21 twenty hours of didactic and clinical instruction, as established by
22 the board, and certification from an institution of higher learning,
23 accredited by those agencies recognized by the United States office of
24 education or the council on postsecondary accreditation to qualify for
25 certification by the optometry board of Washington to use drugs for
26 diagnostic and therapeutic purposes. Such course or courses shall be
27 the fiscal responsibility of the participating and attending
28 optometrist.

29 (3) The board shall establish a schedule of drugs for diagnostic
30 and treatment purposes limited to the practice of optometry, and no
31 person licensed pursuant to this chapter shall prescribe, dispense,
32 purchase, possess, or administer drugs except as authorized and to the
33 extent permitted by the board.

34 (a) The board shall establish, by rule, specific guidelines for the
35 prescription and administration of drugs by optometric physicians, so
36 that licensed optometric physicians and persons filling their
37 prescriptions have a clear understanding of which drugs and which
38 dosages or forms are included in the authority granted by this section.

1 (b) No optometrist shall prescribe, dispense, or administer a
2 controlled substance for more than seven days in treating a particular
3 patient for a single trauma, episode, or condition.

4 (c) The prescription or administration of drugs as authorized in
5 this section is specifically limited to those drugs appropriate to
6 treatment of diseases or conditions of the vision system that are
7 within the scope of practice of optometry. The prescription or
8 administration of drugs for any other purpose is not authorized by this
9 section.

10 (4) The board shall develop a means of identification and
11 verification of optometrists certified to use therapeutic drugs for the
12 purpose of issuing prescriptions as authorized by this section.

13 **Sec. 2.** RCW 18.53.140 and 1991 c 3 s 138 are each amended to read
14 as follows:

15 It shall be unlawful for any person:

16 (1) To sell or barter, or offer to sell or barter any license
17 issued by the secretary; or

18 (2) To purchase or procure by barter any license with the intent to
19 use the same as evidence of the holder's qualification to practice
20 optometry; or

21 (3) To alter with fraudulent intent in any material regard such
22 license; or

23 (4) To use or attempt to use any such license which has been
24 purchased, fraudulently issued, counterfeited or materially altered as
25 a valid license; or

26 (5) To practice optometry under a false or assumed name, or as a
27 representative or agent of any person, firm or corporation with which
28 the licensee has no connection: PROVIDED, Nothing in this chapter nor
29 in the optometry law shall make it unlawful for any lawfully licensed
30 optometrist or association of lawfully licensed optometrists to
31 practice optometry under the name of any lawfully licensed optometrist
32 who may transfer by inheritance or otherwise the right to use such
33 name; or

34 (6) To practice optometry in this state either for him or herself
35 or any other individual, corporation, partnership, group, public or
36 private entity, or any member of the licensed healing arts without
37 having at the time of so doing a valid license issued by the secretary
38 of health; or

1 (7) To in any manner barter or give away as premiums either on his
2 own account or as agent or representative for any other purpose, firm
3 or corporation, any eyeglasses, spectacles, lenses or frames; or

4 (8) To use drugs in the practice of optometry, except (~~those~~
5 ~~topically applied for diagnostic or therapeutic purposes~~) as
6 authorized under RCW 18.53.010; or

7 (9) To use advertising whether printed, radio, display, or of any
8 other nature, which is misleading or inaccurate in any material
9 particular, nor shall any such person in any way misrepresent any goods
10 or services (including but without limitation, its use, trademark,
11 grade, quality, size, origin, substance, character, nature, finish,
12 material, content, or preparation) or credit terms, values, policies,
13 services, or the nature or form of the business conducted; or

14 (10) To advertise the "free examination of eyes," "free
15 consultation," "consultation without obligation," "free advice," or any
16 words or phrases of similar import which convey the impression to the
17 public that eyes are examined free or of a character tending to deceive
18 or mislead the public, or in the nature of "bait advertising;" or

19 (11) To use an advertisement of a frame or mounting which is not
20 truthful in describing the frame or mounting and all its component
21 parts. Or advertise a frame or mounting at a price, unless it shall be
22 depicted in the advertisement without lenses inserted, and in addition
23 the advertisement must contain a statement immediately following, or
24 adjacent to the advertised price, that the price is for frame or
25 mounting only, and does not include lenses, eye examination and
26 professional services, which statement shall appear in type as large as
27 that used for the price, or advertise lenses or complete glasses, viz.:
28 frame or mounting with lenses included, at a price either alone or in
29 conjunction with professional services; or

30 (12) To use advertising, whether printed, radio, display, or of any
31 other nature, which inaccurately lays claim to a policy or continuing
32 practice of generally underselling competitors; or

33 (13) To use advertising, whether printed, radio, display or of any
34 other nature which refers inaccurately in any material particular to
35 any competitors or their goods, prices, values, credit terms, policies
36 or services; or

37 (14) To use advertising whether printed, radio, display, or of any
38 other nature, which states any definite amount of money as "down

1 payment" and any definite amount of money as a subsequent payment, be
2 it daily, weekly, monthly, or at the end of any period of time.

3 **Sec. 3.** RCW 69.41.030 and 1996 c 178 s 17 are each amended to read
4 as follows:

5 It shall be unlawful for any person to sell, deliver, or possess
6 any legend drug except upon the order or prescription of a physician
7 under chapter 18.71 RCW, an osteopathic physician and surgeon under
8 chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who
9 is certified by the optometry board under RCW 18.53.010, a dentist
10 under chapter 18.32 RCW, a podiatric physician and surgeon under
11 chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
12 commissioned medical or dental officer in the United States armed
13 forces or public health service in the discharge of his or her official
14 duties, a duly licensed physician or dentist employed by the veterans
15 administration in the discharge of his or her official duties, a
16 registered nurse or advanced registered nurse practitioner under
17 chapter 18.79 RCW when authorized by the nursing care quality assurance
18 commission, an osteopathic physician assistant under chapter 18.57A RCW
19 when authorized by the board of osteopathic medicine and surgery, a
20 physician assistant under chapter 18.71A RCW when authorized by the
21 medical quality assurance commission, a physician licensed to practice
22 medicine and surgery or a physician licensed to practice osteopathic
23 medicine and surgery, a dentist licensed to practice dentistry, a
24 podiatric physician and surgeon licensed to practice podiatric medicine
25 and surgery, or a veterinarian licensed to practice veterinary
26 medicine, in any province of Canada which shares a common border with
27 the state of Washington or in any state of the United States:
28 PROVIDED, HOWEVER, That the above provisions shall not apply to sale,
29 delivery, or possession by drug wholesalers or drug manufacturers, or
30 their agents or employees, or to any practitioner acting within the
31 scope of his or her license, or to a common or contract carrier or
32 warehouseman, or any employee thereof, whose possession of any legend
33 drug is in the usual course of business or employment: PROVIDED
34 FURTHER, That nothing in this chapter or chapter 18.64 RCW shall
35 prevent a family planning clinic that is under contract with the
36 department of social and health services from selling, delivering,
37 possessing, and dispensing commercially prepackaged oral contraceptives
38 prescribed by authorized, licensed health care practitioners.

1 **Sec. 4.** RCW 69.50.101 and 1996 c 178 s 18 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, definitions of terms
4 shall be as indicated where used in this chapter:

5 (a) "Administer" means to apply a controlled substance, whether by
6 injection, inhalation, ingestion, or any other means, directly to the
7 body of a patient or research subject by:

8 (1) a practitioner authorized to prescribe (or, by the
9 practitioner's authorized agent); or

10 (2) the patient or research subject at the direction and in the
11 presence of the practitioner.

12 (b) "Agent" means an authorized person who acts on behalf of or at
13 the direction of a manufacturer, distributor, or dispenser. It does
14 not include a common or contract carrier, public warehouseperson, or
15 employee of the carrier or warehouseperson.

16 (c) "Board" means the state board of pharmacy.

17 (d) "Controlled substance" means a drug, substance, or immediate
18 precursor included in Schedules I through V as set forth in federal or
19 state laws, or federal or board rules.

20 (e)(1) "Controlled substance analog" means a substance the chemical
21 structure of which is substantially similar to the chemical structure
22 of a controlled substance in Schedule I or II and:

23 (i) that has a stimulant, depressant, or hallucinogenic effect on
24 the central nervous system substantially similar to the stimulant,
25 depressant, or hallucinogenic effect on the central nervous system of
26 a controlled substance included in Schedule I or II; or

27 (ii) with respect to a particular individual, that the individual
28 represents or intends to have a stimulant, depressant, or
29 hallucinogenic effect on the central nervous system substantially
30 similar to the stimulant, depressant, or hallucinogenic effect on the
31 central nervous system of a controlled substance included in Schedule
32 I or II.

33 (2) The term does not include:

34 (i) a controlled substance;

35 (ii) a substance for which there is an approved new drug
36 application;

37 (iii) a substance with respect to which an exemption is in effect
38 for investigational use by a particular person under Section 505 of the

1 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent
2 conduct with respect to the substance is pursuant to the exemption; or

3 (iv) any substance to the extent not intended for human consumption
4 before an exemption takes effect with respect to the substance.

5 (f) "Deliver" or "delivery," means the actual or constructive
6 transfer from one person to another of a substance, whether or not
7 there is an agency relationship.

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

9 (h) "Dispense" means the interpretation of a prescription or order
10 for a controlled substance and, pursuant to that prescription or order,
11 the proper selection, measuring, compounding, labeling, or packaging
12 necessary to prepare that prescription or order for delivery.

13 (i) "Dispenser" means a practitioner who dispenses.

14 (j) "Distribute" means to deliver other than by administering or
15 dispensing a controlled substance.

16 (k) "Distributor" means a person who distributes.

17 (l) "Drug" means (1) a controlled substance recognized as a drug in
18 the official United States pharmacopoeia/national formulary or the
19 official homeopathic pharmacopoeia of the United States, or any
20 supplement to them; (2) controlled substances intended for use in the
21 diagnosis, cure, mitigation, treatment, or prevention of disease in
22 individuals or animals; (3) controlled substances (other than food)
23 intended to affect the structure or any function of the body of
24 individuals or animals; and (4) controlled substances intended for use
25 as a component of any article specified in (1), (2), or (3) of this
26 subsection. The term does not include devices or their components,
27 parts, or accessories.

28 (m) "Drug enforcement administration" means the drug enforcement
29 administration in the United States Department of Justice, or its
30 successor agency.

31 (n) "Immediate precursor" means a substance:

32 (1) that the state board of pharmacy has found to be and by rule
33 designates as being the principal compound commonly used, or produced
34 primarily for use, in the manufacture of a controlled substance;

35 (2) that is an immediate chemical intermediary used or likely to be
36 used in the manufacture of a controlled substance; and

37 (3) the control of which is necessary to prevent, curtail, or limit
38 the manufacture of the controlled substance.

1 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
2 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
3 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
4 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
5 69.50.204(c), and 69.50.208(a) the term includes any positional or
6 geometric isomer.

7 (p) "Manufacture" means the production, preparation, propagation,
8 compounding, conversion, or processing of a controlled substance,
9 either directly or indirectly or by extraction from substances of
10 natural origin, or independently by means of chemical synthesis, or by
11 a combination of extraction and chemical synthesis, and includes any
12 packaging or repackaging of the substance or labeling or relabeling of
13 its container. The term does not include the preparation, compounding,
14 packaging, repackaging, labeling, or relabeling of a controlled
15 substance:

16 (1) by a practitioner as an incident to the practitioner's
17 administering or dispensing of a controlled substance in the course of
18 the practitioner's professional practice; or

19 (2) by a practitioner, or by the practitioner's authorized agent
20 under the practitioner's supervision, for the purpose of, or as an
21 incident to, research, teaching, or chemical analysis and not for sale.

22 (q) "Marijuana" or "marihuana" means all parts of the plant
23 Cannabis, whether growing or not; the seeds thereof; the resin
24 extracted from any part of the plant; and every compound, manufacture,
25 salt, derivative, mixture, or preparation of the plant, its seeds or
26 resin. The term does not include the mature stalks of the plant, fiber
27 produced from the stalks, oil or cake made from the seeds of the plant,
28 any other compound, manufacture, salt, derivative, mixture, or
29 preparation of the mature stalks (except the resin extracted
30 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
31 which is incapable of germination.

32 (r) "Narcotic drug" means any of the following, whether produced
33 directly or indirectly by extraction from substances of vegetable
34 origin, or independently by means of chemical synthesis, or by a
35 combination of extraction and chemical synthesis:

36 (1) Opium, opium derivative, and any derivative of opium or opium
37 derivative, including their salts, isomers, and salts of isomers,
38 whenever the existence of the salts, isomers, and salts of isomers is

1 possible within the specific chemical designation. The term does not
2 include the isoquinoline alkaloids of opium.

3 (2) Synthetic opiate and any derivative of synthetic opiate,
4 including their isomers, esters, ethers, salts, and salts of isomers,
5 esters, and ethers, whenever the existence of the isomers, esters,
6 ethers, and salts is possible within the specific chemical designation.

7 (3) Poppy straw and concentrate of poppy straw.

8 (4) Coca leaves, except coca leaves and extracts of coca leaves
9 from which cocaine, ecgonine, and derivatives or ecgonine or their
10 salts have been removed.

11 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

12 (6) Cocaine base.

13 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
14 thereof.

15 (8) Any compound, mixture, or preparation containing any quantity
16 of any substance referred to in subparagraphs (1) through (7).

17 (s) "Opiate" means any substance having an addiction-forming or
18 addiction-sustaining liability similar to morphine or being capable of
19 conversion into a drug having addiction-forming or addiction-sustaining
20 liability. The term includes opium, substances derived from opium
21 (opium derivatives), and synthetic opiates. The term does not include,
22 unless specifically designated as controlled under RCW 69.50.201, the
23 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
24 (dextromethorphan). The term includes the racemic and levorotatory
25 forms of dextromethorphan.

26 (t) "Opium poppy" means the plant of the species *Papaver somniferum*
27 L., except its seeds.

28 (u) "Person" means individual, corporation, business trust, estate,
29 trust, partnership, association, joint venture, government,
30 governmental subdivision or agency, or any other legal or commercial
31 entity.

32 (v) "Poppy straw" means all parts, except the seeds, of the opium
33 poppy, after mowing.

34 (w) "Practitioner" means:

35 (1) A physician under chapter 18.71 RCW, a physician assistant
36 under chapter 18.71A RCW, an osteopathic physician and surgeon under
37 chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who
38 is certified by the optometry board under RCW 18.53.010 subject to any
39 limitations in RCW 18.53.010, a dentist under chapter 18.32 RCW, a

1 podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian
2 under chapter 18.92 RCW, a registered nurse, advanced registered nurse
3 practitioner, or licensed practical nurse under chapter 18.79 RCW, a
4 pharmacist under chapter 18.64 RCW or a scientific investigator under
5 this chapter, licensed, registered or otherwise permitted insofar as is
6 consistent with those licensing laws to distribute, dispense, conduct
7 research with respect to or administer a controlled substance in the
8 course of their professional practice or research in this state.

9 (2) A pharmacy, hospital or other institution licensed, registered,
10 or otherwise permitted to distribute, dispense, conduct research with
11 respect to or to administer a controlled substance in the course of
12 professional practice or research in this state.

13 (3) A physician licensed to practice medicine and surgery, a
14 physician licensed to practice osteopathic medicine and surgery, a
15 dentist licensed to practice dentistry, a podiatric physician and
16 surgeon licensed to practice podiatric medicine and surgery, or a
17 veterinarian licensed to practice veterinary medicine in any state of
18 the United States.

19 (x) "Prescription" means an order for controlled substances issued
20 by a practitioner duly authorized by law or rule in the state of
21 Washington to prescribe controlled substances within the scope of his
22 or her professional practice for a legitimate medical purpose.

23 (y) "Production" includes the manufacturing, planting, cultivating,
24 growing, or harvesting of a controlled substance.

25 (z) "Secretary" means the secretary of health or the secretary's
26 designee.

27 (aa) "State," unless the context otherwise requires, means a state
28 of the United States, the District of Columbia, the Commonwealth of
29 Puerto Rico, or a territory or insular possession subject to the
30 jurisdiction of the United States.

31 (bb) "Ultimate user" means an individual who lawfully possesses a
32 controlled substance for the individual's own use or for the use of a
33 member of the individual's household or for administering to an animal
34 owned by the individual or by a member of the individual's household.

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