
HOUSE BILL 2849

State of Washington

58th Legislature

2004 Regular Session

By Representatives Kagi, Cody, Campbell, Bush and Schual-Berke; by request of Department of Health

Read first time 01/21/2004. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to eliminating credentialing barriers for sex
2 offender treatment providers; amending RCW 4.24.556, 18.155.020,
3 18.155.030, and 18.155.040; reenacting and amending RCW 18.130.040; and
4 adding a new section to chapter 18.155 RCW.

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

6 **Sec. 1.** RCW 4.24.556 and 2001 2nd sp.s. c 12 s 403 are each
7 amended to read as follows:

8 (1) A certified sex offender treatment provider or a certified
9 affiliate sex offender treatment provider, acting in the course of his
10 or her duties, providing treatment to a person who has been released to
11 a less restrictive alternative under chapter 71.09 RCW or to a level
12 III sex offender on community custody as a court or department ordered
13 condition of sentence is not negligent because he or she treats a high
14 risk offender; sex offenders are known to have a risk of reoffense.
15 The treatment provider is not liable for civil damages resulting from
16 the reoffense of a client unless the treatment provider's acts or
17 omissions constituted gross negligence or willful or wanton misconduct.
18 This limited liability provision does not eliminate the treatment
19 provider's duty to warn of and protect from a client's threatened

1 violent behavior if the client communicates a serious threat of
2 physical violence against a reasonably ascertainable victim or victims.
3 In addition to any other requirements to report violations, the sex
4 offender treatment provider is obligated to report an offender's
5 expressions of intent to harm or other predatory behavior, whether or
6 not there is an ascertainable victim, in progress reports and other
7 established processes that enable courts and supervising entities to
8 assess and address the progress and appropriateness of treatment. This
9 limited liability provision applies only to the conduct of certified
10 sex offender treatment providers and certified affiliate sex offender
11 treatment providers and not the conduct of the state.

12 (2) Sex offender treatment providers who provide services to the
13 department of corrections by identifying risk factors and notifying the
14 department of risks for the subset of high risk offenders who are not
15 amenable to treatment and who are under court order for treatment or
16 supervision are practicing within the scope of their profession.

17 **Sec. 2.** RCW 18.130.040 and 2003 c 275 s 2 and 2003 c 258 s 7 are
18 each reenacted and amended to read as follows:

19 (1) This chapter applies only to the secretary and the boards and
20 commissions having jurisdiction in relation to the professions licensed
21 under the chapters specified in this section. This chapter does not
22 apply to any business or profession not licensed under the chapters
23 specified in this section.

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

26 (i) Dispensing opticians licensed and designated apprentices under
27 chapter 18.34 RCW;

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

29 (iii) Midwives licensed under chapter 18.50 RCW;

30 (iv) Ocularists licensed under chapter 18.55 RCW;

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

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

34 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

1 (ix) Respiratory care practitioners licensed under chapter 18.89
2 RCW;

3 (x) Persons registered under chapter 18.19 RCW;

4 (xi) Persons licensed as mental health counselors, marriage and
5 family therapists, and social workers under chapter 18.225 RCW;

6 (xii) Persons registered as nursing pool operators under chapter
7 18.52C RCW;

8 (xiii) Nursing assistants registered or certified under chapter
9 18.88A RCW;

10 (xiv) Health care assistants certified under chapter 18.135 RCW;

11 (xv) Dietitians and nutritionists certified under chapter 18.138
12 RCW;

13 (xvi) Chemical dependency professionals certified under chapter
14 18.205 RCW;

15 (xvii) Sex offender treatment providers and certified affiliate sex
16 offender treatment providers certified under chapter 18.155 RCW;

17 (xviii) Persons licensed and certified under chapter 18.73 RCW or
18 RCW 18.71.205;

19 (xix) Denturists licensed under chapter 18.30 RCW;

20 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

21 (xxi) Surgical technologists registered under chapter 18.215 RCW;

22 and

23 (xxii) Recreational therapists.

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

26 (i) The podiatric medical board as established in chapter 18.22
27 RCW;

28 (ii) The chiropractic quality assurance commission as established
29 in chapter 18.25 RCW;

30 (iii) The dental quality assurance commission as established in
31 chapter 18.32 RCW;

32 (iv) The board of hearing and speech as established in chapter
33 18.35 RCW;

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

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

1 (vii) The board of osteopathic medicine and surgery as established
2 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
3 18.57A RCW;

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

6 (ix) The medical quality assurance commission as established in
7 chapter 18.71 RCW governing licenses and registrations issued under
8 chapters 18.71 and 18.71A RCW;

9 (x) The board of physical therapy as established in chapter 18.74
10 RCW;

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

13 (xii) The nursing care quality assurance commission as established
14 in chapter 18.79 RCW governing licenses and registrations issued under
15 that chapter;

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

18 (xiv) The veterinary board of governors as established in chapter
19 18.92 RCW.

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

28 (4) All disciplining authorities shall adopt procedures to ensure
29 substantially consistent application of this chapter, the Uniform
30 Disciplinary Act, among the disciplining authorities listed in
31 subsection (2) of this section.

32 **Sec. 3.** RCW 18.155.020 and 2001 2nd sp.s. c 12 s 401 are each
33 amended to read as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout this chapter:

36 (1) "Certified sex offender treatment provider" means a licensed,

1 certified, or registered health professional who is certified to
2 examine and treat sex offenders pursuant to chapters 9.94A and 13.40
3 RCW and sexually violent predators under chapter 71.09 RCW.

4 (2) "Certified affiliate sex offender treatment provider" means a
5 licensed, certified, or registered health professional who is certified
6 as an affiliate to examine and treat sex offenders pursuant to chapters
7 9.94A and 13.40 RCW and sexually violent predators under chapter 71.09
8 RCW under the supervision of a certified sex offender treatment
9 provider.

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

11 ((+3)) (4) "Secretary" means the secretary of health.

12 ((+4)) (5) "Sex offender treatment provider" or "affiliate sex
13 offender treatment provider" means a person who counsels or treats sex
14 offenders accused of or convicted of a sex offense as defined by RCW
15 9.94A.030.

16 **Sec. 4.** RCW 18.155.030 and 2001 2nd sp.s. c 12 s 402 are each
17 amended to read as follows:

18 (1) No person shall represent himself or herself as a certified sex
19 offender treatment provider or certified affiliate sex offender
20 treatment provider without first applying for and receiving a
21 certificate pursuant to this chapter.

22 (2) Only a certified sex offender treatment provider or certified
23 affiliate sex offender treatment provider may perform or provide the
24 following services:

25 (a) Evaluations conducted for the purposes of and pursuant to RCW
26 9.94A.670 and 13.40.160;

27 (b) Treatment of convicted sex offenders who are sentenced and
28 ordered into treatment pursuant to chapter 9.94A RCW and adjudicated
29 juvenile sex offenders who are ordered into treatment pursuant to
30 chapter 13.40 RCW;

31 (c) Except as provided under subsection (3) of this section,
32 treatment of sexually violent predators who are conditionally released
33 to a less restrictive alternative pursuant to chapter 71.09 RCW.

34 (3) A certified sex offender treatment provider or certified
35 affiliate sex offender treatment provider may not perform or provide
36 treatment of sexually violent predators under subsection (2)(c) of this
37 section if the ((certified sex offender)) treatment provider has been:

- 1 (a) Convicted of a sex offense, as defined in RCW 9.94A.030;
- 2 (b) Convicted in any other jurisdiction of an offense that under
3 the laws of this state would be classified as a sex offense as defined
4 in RCW 9.94A.030; or
- 5 (c) Suspended or otherwise restricted from practicing any health
6 care profession by competent authority in any state, federal, or
7 foreign jurisdiction.

8 **Sec. 5.** RCW 18.155.040 and 1996 c 191 s 86 are each amended to
9 read as follows:

10 In addition to any other authority provided by law, the secretary
11 shall have the following authority:

- 12 (1) To set administrative procedures, administrative requirements,
13 and fees in accordance with RCW 43.70.250 and 43.70.280;
- 14 (2) To establish forms necessary to administer this chapter;
- 15 (3) To issue a certificate or an affiliate certificate to any
16 applicant who has met the education, training, and examination
17 requirements for certification or an affiliate certification and deny
18 a certificate to applicants who do not meet the minimum qualifications
19 for certification or affiliate certification. Proceedings concerning
20 the denial of certificates based on unprofessional conduct or impaired
21 practice shall be governed by the uniform disciplinary act, chapter
22 18.130 RCW;
- 23 (4) To hire clerical, administrative, and investigative staff as
24 needed to implement and administer this chapter and to hire individuals
25 including those certified under this chapter to serve as examiners or
26 consultants as necessary to implement and administer this chapter;
- 27 (5) To maintain the official department record of all applicants
28 and certifications;
- 29 (6) To conduct a hearing on an appeal of a denial of a certificate
30 on the applicant's failure to meet the minimum qualifications for
31 certification. The hearing shall be conducted pursuant to chapter
32 34.05 RCW;
- 33 (7) To issue subpoenas, statements of charges, statements of intent
34 to deny certificates, and orders and to delegate in writing to a
35 designee the authority to issue subpoenas, statements of charges, and
36 statements of intent to deny certificates;

- 1 (8) To determine the minimum education, work experience, and
2 training requirements for certification or affiliate certification,
3 including but not limited to approval of educational programs;
4 (9) To prepare and administer or approve the preparation and
5 administration of examinations for certification;
6 (10) To establish by rule the procedure for appeal of an
7 examination failure;
8 (11) To adopt rules implementing a continuing competency program;
9 (12) To adopt rules in accordance with chapter 34.05 RCW as
10 necessary to implement this chapter.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.155 RCW
12 to read as follows:

13 The department shall issue an affiliate certificate to any
14 applicant who meets the following requirements:

15 (1) Successful completion of an educational program approved by the
16 secretary or successful completion of alternate training which meets
17 the criteria of the secretary;

18 (2) Successful completion of an examination administered or
19 approved by the secretary;

20 (3) Not having engaged in unprofessional conduct or being unable to
21 practice with reasonable skill and safety as a result of a physical or
22 mental impairment; and

23 (4) Other requirements as may be established by the secretary that
24 impact the competence of the sex offender treatment provider.

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