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**SUBSTITUTE SENATE BILL 5470**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Trudeau, Short, Lovelett, Nguyen, Randall, Saldaña, Shewmake, and C. Wilson)

AN ACT Relating to creating a new health profession for lactation consultants; amending RCW 18.120.020 and 18.130.040; adding a new chapter to Title 18 RCW; creating a new section; and providing effective dates.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Lactation care and services" means the clinical application of scientific principles and a multidisciplinary body of evidence for evaluation, problem identification, treatment, education, and consultation to provide lactation care and services to childbearing families.

(3) "Lactation consultant" means a person certified under this chapter to provide lactation care and services.

(4) "Secretary" means the secretary of health.

NEW SECTION. **Sec.**  (1) A lactation consultant may voluntarily apply for certification from the department under this section.

(2) The department shall issue a certification to any applicant who has met the following requirements:

(a)(i) Board certification by a secretary-approved national or international certifying organization that, at a minimum, requires the following for board certification:

(A) 90 hours of lactation-specific education;

(B) 24 college-level academic credits in health professional courses; and

(C) At least 300 hours of clinical practice; or

(ii) Equivalent education and experience approved by the secretary. The education, clinical training, and experience of licensed midwives and certified nurse midwives may be considered as credit toward lactation consultant certification;

(b) Passage of an examination approved by the secretary;

(c) Good moral character;

(d) The physical and mental capability to safely provide lactation care and services;

(e) Submission of an application on a form provided by the department;

(f) Payment of a certification fee established by the secretary in rule; and

(g) Has not engaged in unprofessional conduct as defined in RCW 18.130.180.

(3) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of certifications and the discipline of certified lactation consultants under this chapter. The secretary is the disciplining authority under this chapter.

(4) The secretary shall adopt rules specifying the requirements for renewal of a lactation consultant's certification including, but not limited to:

(a) Reasonably appropriate evidence of competency, as long as such requirements are uniform as to application, are reasonably related to the measurement of qualification, performance, or competence, and are desirable and necessary for the protection of public health; and

(b) Continuing education requirements consistent with the requirements of the certifying organization approved under subsection (2)(a)(i) of this section. The rules must allow an applicant to successfully complete a criterion-referenced examination approved by the secretary in lieu of the continuing education requirements.

(5) The secretary shall maintain a record of all applicants and certifications under this chapter and establish administrative procedures, administrative requirements, and fees for renewal or late renewal as provided in RCW 43.70.250 and 43.70.280.

(6) All fees collected under this chapter must be credited to the health professions account as required under RCW 43.70.320.

NEW SECTION. **Sec.**  (1) Nothing in this chapter prohibits a person from practicing as a lactation consultant without obtaining certification under this chapter.

(2) No person may use the title "state-certified lactation consultant" in connection with the person's name to indicate or imply, directly or indirectly, that the person is a state-certified lactation consultant without being certified in accordance with this chapter as a lactation consultant.

(3) Nothing in this chapter prohibits an individual who holds a credential issued by this state to engage in the practice of lactation consultation without obtaining a lactation consultant credential if it is within that profession's scope of practice.

NEW SECTION. **Sec.**  An applicant holding a license in another state may be certified as a lactation consultant 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.

NEW SECTION. **Sec.**  A lactation consultant certified under this chapter may perform lactation care and services including, but not limited to:

(1) Lactation assessment through the systemic collection of subjective and objective data;

(2) Analysis of data and creation of a plan of care;

(3) Implementation of a lactation care plan with demonstration and instruction to parents and communication to the primary health care provider;

(4) Evaluation of outcomes;

(5) Provision of lactation education to parents and health care providers;

(6) The recommendation and use of assistive devices; and

(7) Other lactation care and services authorized in rule by the secretary.

NEW SECTION. **Sec.**  An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines the military training or experience is not substantially equivalent to the standards of this state.

NEW SECTION. **Sec.**  The secretary may adopt any rules necessary to implement this chapter.

**Sec.**  RCW 18.120.020 and 2020 c 80 s 22 are each amended to read as follows:

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 chapter 18.57 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; acupuncturists or acupuncture and Eastern 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, forensic 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; and, beginning January 1, 2024, lactation consultants certified under chapter 18.--- RCW (the new chapter created in section 11 of this act).

(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.

**Sec.**  RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

(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) Acupuncturists or acupuncture and Eastern 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) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists 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, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; ((~~and~~))

(xxvii) Birth doulas certified under chapter 18.47 RCW; and

(xxviii) Beginning January 1, 2024, lactation consultants certified under chapter 18.--- RCW (the new chapter created in section 11 of this act).

(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 chapter 18.57 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 Washington medical 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, governing licenses and certifications issued under that chapter; 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.

NEW SECTION. **Sec.**  The health care authority shall take any steps which are necessary and proper to ensure that the services of lactation consultants certified by an international governing body who also hold a certification issued by the department of health are covered under the state medicaid program by January 1, 2025.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act take effect January 1, 2024.

NEW SECTION. **Sec.**  Section 9 of this act takes effect October 1, 2023.

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