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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)

READ FIRST TIME 02/15/23.

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

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires  
8 otherwise.

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

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

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

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

18 NEW SECTION. **Sec. 2.** (1) A lactation consultant may voluntarily  
19 apply for certification from the department under this section.

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

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

6 (A) 90 hours of lactation-specific education;

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

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

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

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

15 (c) Good moral character;

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

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

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

22 (g) Has not engaged in unprofessional conduct as defined in RCW  
23 18.130.180.

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

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

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

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

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

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

7 NEW SECTION. **Sec. 3.** (1) Nothing in this chapter prohibits a  
8 person from practicing as a lactation consultant without obtaining  
9 certification under this chapter.

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

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

19 NEW SECTION. **Sec. 4.** An applicant holding a license in another  
20 state may be certified as a lactation consultant in this state  
21 without examination if the secretary determines that the other  
22 state's licensing standards are substantially equivalent to the  
23 standards in this state.

24 NEW SECTION. **Sec. 5.** A lactation consultant certified under  
25 this chapter may perform lactation care and services including, but  
26 not limited to:

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

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

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

33 (4) Evaluation of outcomes;

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

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

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

3 NEW SECTION. **Sec. 6.** An applicant with military training or  
4 experience satisfies the training or experience requirements of this  
5 chapter unless the secretary determines the military training or  
6 experience is not substantially equivalent to the standards of this  
7 state.

8 NEW SECTION. **Sec. 7.** The secretary may adopt any rules  
9 necessary to implement this chapter.

10 **Sec. 8.** RCW 18.120.020 and 2020 c 80 s 22 are each amended to  
11 read as follows:

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14 (1) "Applicant group" includes any health professional group or  
15 organization, any individual, or any other interested party which  
16 proposes that any health professional group not presently regulated  
17 be regulated or which proposes to substantially increase the scope of  
18 practice of the profession.

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

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

31 (4) "Health professions" means and includes the following health  
32 and health-related licensed or regulated professions and occupations:  
33 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic  
34 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;  
35 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;  
36 dental anesthesia assistants under chapter 18.350 RCW; dispensing  
37 opticians under chapter 18.34 RCW; hearing instruments under chapter

1 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and  
2 funeral directing under chapter 18.39 RCW; midwifery under chapter  
3 18.50 RCW; nursing home administration under chapter 18.52 RCW;  
4 optometry under chapters 18.53 and 18.54 RCW; ocularists under  
5 chapter 18.55 RCW; osteopathic medicine and surgery under chapter  
6 18.57 RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine  
7 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter  
8 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses  
9 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;  
10 registered nurses under chapter 18.79 RCW; occupational therapists  
11 licensed under chapter 18.59 RCW; respiratory care practitioners  
12 licensed under chapter 18.89 RCW; veterinarians and veterinary  
13 technicians under chapter 18.92 RCW; massage therapists under chapter  
14 18.108 RCW; acupuncturists or acupuncture and Eastern medicine  
15 practitioners licensed under chapter 18.06 RCW; persons registered  
16 under chapter 18.19 RCW; persons licensed as mental health  
17 counselors, marriage and family therapists, and social workers under  
18 chapter 18.225 RCW; dietitians and nutritionists certified by chapter  
19 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing  
20 assistants registered or certified under chapter 18.88A RCW;  
21 reflexologists certified under chapter 18.108 RCW; medical  
22 assistants-certified, medical assistants-hemodialysis technician,  
23 medical assistants-phlebotomist, forensic phlebotomist, and medical  
24 assistants-registered certified and registered under chapter 18.360  
25 RCW; (~~and~~) licensed behavior analysts, licensed assistant behavior  
26 analysts, and certified behavior technicians under chapter 18.380  
27 RCW; and, beginning January 1, 2024, lactation consultants certified  
28 under chapter 18.--- RCW (the new chapter created in section 11 of  
29 this act).

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

34 (6) "Legislative committees of reference" means the standing  
35 legislative committees designated by the respective rules committees  
36 of the senate and house of representatives to consider proposed  
37 legislation to regulate health professions not previously regulated.

38 (7) "License," "licensing," and "licensure" mean permission to  
39 engage in a health profession which would otherwise be unlawful in  
40 the state in the absence of the permission. A license is granted to

1 those individuals who meet prerequisite qualifications to perform  
2 prescribed health professional tasks and for the use of a particular  
3 title.

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

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

12 (10) "Public member" means an individual who is not, and never  
13 was, a member of the health profession being regulated or the spouse  
14 of a member, or an individual who does not have and never has had a  
15 material financial interest in either the rendering of the health  
16 professional service being regulated or an activity directly related  
17 to the profession being regulated.

18 (11) "Registration" means the formal notification which, prior to  
19 rendering services, a practitioner shall submit to a state agency  
20 setting forth the name and address of the practitioner; the location,  
21 nature and operation of the health activity to be practiced; and, if  
22 required by the regulatory entity, a description of the service to be  
23 provided.

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

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

32 **Sec. 9.** RCW 18.130.040 and 2022 c 217 s 5 are each amended to  
33 read as follows:

34 (1) This chapter applies only to the secretary and the boards and  
35 commissions having jurisdiction in relation to the professions  
36 licensed under the chapters specified in this section. This chapter  
37 does not apply to any business or profession not licensed under the  
38 chapters specified in this section.

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

3 (i) Dispensing opticians licensed and designated apprentices  
4 under chapter 18.34 RCW;

5 (ii) Midwives licensed under chapter 18.50 RCW;

6 (iii) Ocularists licensed under chapter 18.55 RCW;

7 (iv) Massage therapists and businesses licensed under chapter  
8 18.108 RCW;

9 (v) Dental hygienists licensed under chapter 18.29 RCW;

10 (vi) Acupuncturists or acupuncture and Eastern medicine  
11 practitioners licensed under chapter 18.06 RCW;

12 (vii) Radiologic technologists certified and X-ray technicians  
13 registered under chapter 18.84 RCW;

14 (viii) Respiratory care practitioners licensed under chapter  
15 18.89 RCW;

16 (ix) Hypnotherapists and agency affiliated counselors registered  
17 and advisors and counselors certified under chapter 18.19 RCW;

18 (x) Persons licensed as mental health counselors, mental health  
19 counselor associates, marriage and family therapists, marriage and  
20 family therapist associates, social workers, social work associates—  
21 advanced, and social work associates—independent clinical under  
22 chapter 18.225 RCW;

23 (xi) Persons registered as nursing pool operators under chapter  
24 18.52C RCW;

25 (xii) Nursing assistants registered or certified or medication  
26 assistants endorsed under chapter 18.88A RCW;

27 (xiii) Dietitians and nutritionists certified under chapter  
28 18.138 RCW;

29 (xiv) Substance use disorder professionals, substance use  
30 disorder professional trainees, or co-occurring disorder specialists  
31 certified under chapter 18.205 RCW;

32 (xv) Sex offender treatment providers and certified affiliate sex  
33 offender treatment providers certified under chapter 18.155 RCW;

34 (xvi) Persons licensed and certified under chapter 18.73 RCW or  
35 RCW 18.71.205;

36 (xvii) Orthotists and prosthetists licensed under chapter 18.200  
37 RCW;

38 (xviii) Surgical technologists registered under chapter 18.215  
39 RCW;

40 (xix) Recreational therapists under chapter 18.230 RCW;

1 (xx) Animal massage therapists certified under chapter 18.240  
2 RCW;

3 (xxi) Athletic trainers licensed under chapter 18.250 RCW;  
4 (xxii) Home care aides certified under chapter 18.88B RCW;  
5 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;  
6 (xxiv) Reflexologists certified under chapter 18.108 RCW;  
7 (xxv) Medical assistants-certified, medical assistants-  
8 hemodialysis technician, medical assistants-phlebotomist, forensic  
9 phlebotomist, and medical assistants-registered certified and  
10 registered under chapter 18.360 RCW;

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

13 (xxvii) Birth douglas certified under chapter 18.47 RCW; and  
14 (xxviii) Beginning January 1, 2024, lactation consultants  
15 certified under chapter 18.--- RCW (the new chapter created in  
16 section 11 of this act).

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

19 (i) The podiatric medical board as established in chapter 18.22  
20 RCW;

21 (ii) The chiropractic quality assurance commission as established  
22 in chapter 18.25 RCW;

23 (iii) The dental quality assurance commission as established in  
24 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,  
25 licenses and registrations issued under chapter 18.260 RCW, and  
26 certifications issued under chapter 18.350 RCW;

27 (iv) The board of hearing and speech as established in chapter  
28 18.35 RCW;

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

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

33 (vii) The board of osteopathic medicine and surgery as  
34 established in chapter 18.57 RCW governing licenses issued under  
35 chapter 18.57 RCW;

36 (viii) The pharmacy quality assurance commission as established  
37 in chapter 18.64 RCW governing licenses issued under chapters 18.64  
38 and 18.64A RCW;



1 (ix) The Washington medical commission as established in chapter  
2 18.71 RCW governing licenses and registrations issued under chapters  
3 18.71 and 18.71A RCW;

4 (x) The board of physical therapy as established in chapter 18.74  
5 RCW;

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

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

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

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

15 (xv) The board of naturopathy established in chapter 18.36A RCW,  
16 governing licenses and certifications issued under that chapter; and

17 (xvi) The board of denturists established in chapter 18.30 RCW.

18 (3) In addition to the authority to discipline license holders,  
19 the disciplining authority has the authority to grant or deny  
20 licenses. The disciplining authority may also grant a license subject  
21 to conditions.

22 (4) All disciplining authorities shall adopt procedures to ensure  
23 substantially consistent application of this chapter, the uniform  
24 disciplinary act, among the disciplining authorities listed in  
25 subsection (2) of this section.

26 NEW SECTION. **Sec. 10.** The health care authority shall take any  
27 steps which are necessary and proper to ensure that the services of  
28 lactation consultants certified by an international governing body  
29 who also hold a certification issued by the department of health are  
30 covered under the state medicaid program by January 1, 2025.

31 NEW SECTION. **Sec. 11.** Sections 1 through 7 of this act  
32 constitute a new chapter in Title 18 RCW.

33 NEW SECTION. **Sec. 12.** Sections 1 through 7 of this act take  
34 effect January 1, 2024.

1        NEW SECTION.    **Sec. 13.**    Section 9 of this act takes effect  
2    October 1, 2023.

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