

(4) Appropriate state and local agencies are authorized to inspect donated food items for wholesomeness and may establish procedures for the handling of the food items.

Passed the Senate February 8, 1979.

Passed the House March 2, 1979.

Approved by the Governor March 26, 1979.

Filed in Office of Secretary of State March 26, 1979.

#### CHAPTER 116

[Senate Bill No. 2077]

#### PUBLIC UTILITY SERVICES—RATE REDUCTION—LOW INCOME SENIOR CITIZENS

AN ACT Relating to utility rates; and adding a new section to chapter 74.38 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 74.38 RCW a new section to read as follows:

Notwithstanding any other provision of law, any county, city, town, municipal corporation, or quasi municipal corporation providing utility services may provide such services at reduced rates for low income senior citizens: PROVIDED, That, for the purposes of this section, "low income senior citizen" shall be defined by appropriate ordinance or resolution adopted by the governing body of the county, city, town, municipal corporation, or quasi municipal corporation providing the utility services. Any reduction in rates granted in whatever manner to low income senior citizens in one part of a service area shall be uniformly extended to low income senior citizens in all other parts of the service area.

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Approved by the Governor March 26, 1979.

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#### CHAPTER 117

[Engrossed Senate Bill No. 2355]

#### PRACTICE OF OSTEOPATHY OR OSTEOPATHIC MEDICINE AND SURGERY

AN ACT Relating to osteopathy; amending section 4, chapter 4, Laws of 1919 as amended by section 1, chapter 110, Laws of 1959 and RCW 18.57.020; amending section 6, chapter 4, Laws of 1919 as last amended by section 58, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.57.050; amending section 5, chapter 4, Laws of 1919 and RCW 18.57.080; amending section 3, chapter 227, Laws of 1971 ex. sess. and RCW 18.57.085; amending section 17, chapter 4, Laws of 1919 as last amended by section 59, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.57.130; amending section 11, chapter 4, Laws of 1919 as amended by section 2, chapter 142, Laws of 1963 and RCW 18.57.170; amending section 7, chapter 30, Laws of 1971 ex. sess. and RCW 18.57A.010; adding new sections to

chapter 18.57 RCW; repealing section 10, chapter 4, Laws of 1919 and RCW 18.57.180; repealing section 12, chapter 4, Laws of 1919 and RCW 18.57.240; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 18.57 RCW a new section to read as follows:

As used in this chapter:

- (1) "Board" means the Washington state board of osteopathic medicine and surgery;
- (2) "Department" means the department of licensing;
- (3) "Director" means the director of licensing; and
- (4) "Osteopathic medicine and surgery" means the use of any and all methods in the treatment of disease, injuries, deformities, and all other physical and mental conditions in and of human beings, including the use of osteopathic manipulative therapy. The term means the same as "osteopathy and surgery".

NEW SECTION. Sec. 2. There is added to chapter 18.57 RCW a new section to read as follows:

There is hereby created an agency of the state of Washington, consisting of seven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

The members of the first board shall be appointed to serve the following terms from the date of their appointment: Two members for two years, two members for three years, and three members for five years, or until their successors are appointed and fully qualified. The respective terms of office of such initial appointees shall be designated by the governor at the time of appointment. On expiration of the term of any member, the governor shall appoint for a period of five years an individual of similar qualifications to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be a citizen of the United States and must be an actual resident of this state. One member shall be a consumer who has neither a financial nor a fiduciary relationship to a health care delivery system, and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall meet as soon as practicable after appointment and elect a chairman and a secretary from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

It shall require the affirmative vote of a majority of all the members of the board to take any official action.

Each member of the board may receive the sum of twenty-five dollars per day as compensation for each day or fraction thereof spent on official business and travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the physicians licensed under this chapter and in active practice in this state.

NEW SECTION. Sec. 3. There is added to chapter 18.57 RCW a new section to read as follows:

The board shall have the following powers and duties:

(1) To administer examinations to applicants for licensure under this chapter;

(2) To grant, deny, restrict, suspend, or revoke licenses to practice under this chapter;

(3) To make such rules and regulations as are not inconsistent with the laws of this state as may be deemed necessary or proper to carry out the purposes of this chapter;

(4) To establish and administer requirements for continuing professional education as may be necessary or proper to insure the public health and safety as a prerequisite to granting and renewing licenses under this chapter: **PROVIDED**, That such rules shall not require a licensee under this chapter to engage in continuing education related to or provided by any specific branch, school, or philosophy of medical practice or its political and/or professional organizations, associations, or societies;

(5) To establish rules and regulations fixing standards of professional conduct;

(6) To adopt such rules as are necessary to establish, administer, and/or delegate a review of each malpractice action filed against a person licensed to practice under this chapter. On the basis of such review, where in its sole discretion, it deems it necessary, take such action as required to protect the public health and safety, including restriction, suspension, or revocation of a license to practice under this chapter; and

(7) To keep an official record of all its proceedings, which record shall be evidence of all proceedings of the board which are set forth therein.

NEW SECTION. Sec. 4. There is added to chapter 18.57 RCW a new section to read as follows:

(1) Any person, firm, corporation, or public officer may submit a written complaint to the director charging the holder of a license to practice osteopathy or osteopathic medicine and surgery with unprofessional conduct and specifying the grounds therefor. Such complaint must be made within

five years after the date of the act or occurrence which constitutes the subject of the complaint. If the director determines that such complaint merits consideration, or if the director shall have reason to believe, without formal complaint, that any holder of such license has been guilty of unprofessional conduct, the director shall institute disciplinary proceedings by preparing and filing with the board a specification of the charge or charges of unprofessional conduct and serve a copy thereof on the accused license holder together with notice of a hearing before the board.

(2) All disciplinary proceedings before the board shall be conducted in accordance with the administrative procedure act, chapter 34.04 RCW.

(3) A member of the board who has not personally heard all the testimony and oral argument, if any, shall be disqualified from voting on the final decision in any disciplinary proceeding before the board.

NEW SECTION. Sec. 5. There is added to chapter 18.57 RCW a new section to read as follows:

(1) The board may restrict, suspend, or revoke the license of any physician found guilty of unprofessional conduct under this chapter, or the board may issue a reprimand, as it deems most appropriate.

(2) The board may, in its discretion, suspend imposition of a penalty of restriction, suspension, or revocation of license for such period of time as it may determine proper, and the board may impose such terms and conditions as it may determine proper as a condition to such suspension of imposition of penalty.

(3) Any person whose license has been restricted, suspended, or revoked under the provisions of this chapter may apply to the board for reinstatement at any time and the board may hold hearings on any such petition and may order reinstatement and impose terms and conditions thereof.

(4) If the license holder is found not guilty, or if fewer than a majority of all the board members vote for a finding of guilty, the board shall forthwith order a dismissal of the charges and the exoneration of the accused. When a proceeding has been dismissed, either on the merits or otherwise, the board shall relieve the accused from any possible odium that may attach by reason of the charges made against him by such public exoneration as is necessary, if requested by the accused to do so.

NEW SECTION. Sec. 6. There is added to chapter 18.57 RCW a new section to read as follows:

(1) An order of reprimand, restriction, suspension, or revocation shall contain a brief and concise statement of the ground or grounds upon which the order is based and of the terms and conditions of the restriction and of any suspension of imposition of such restriction, suspension, or revocation, and such order shall be retained as a permanent record of the board.

(2) The filing by the board in the office of the director of an order of restriction, suspension, or revocation shall constitute a restriction, suspension, or revocation of the license to practice in this state in accordance with the terms and conditions imposed by the board and embodied in the order.

NEW SECTION. Sec. 7. There is added to chapter 18.57 RCW a new section read as follows:

The director shall not issue any license or any renewal thereof under this chapter to any person whose license has been restricted, suspended, or revoked by the board except in conformity with the terms and conditions of the order of restriction, suspension, or revocation, or in accordance with any order of reinstatement issued by the board, or in conformity with the final judgment in any proceeding for review instituted under the provisions of this chapter.

NEW SECTION. Sec. 8. There is added to chapter 18.57 RCW a new section to read as follows:

(1) In the event that a physician is determined by a court of competent jurisdiction to be mentally incompetent, such physician's license shall automatically be suspended by the board upon the entry of such judgment, regardless of the pendency of an appeal.

(2) If it appears to the board that there is reasonable cause to believe that a physician who has not been judicially determined to be mentally incompetent is unable to practice osteopathy or osteopathic medicine and surgery with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition, a complaint in the name of the board shall be served upon such physician for a hearing on the sole issue of the capacity of the physician to practice adequately. In enforcing this subsection the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by two or more physicians designated by the board; at least one of whom may be designated by the charged party if such party chooses. Failure of a physician to submit to such examination when directed constitutes grounds for immediate suspension of such physician's license, unless the failure was due to circumstances beyond the control of such physician, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate a capacity to resume the competent practice of osteopathy or osteopathic medicine and surgery with reasonable skill and safety to patients.

For the purpose of this subsection, every physician licensed under this chapter who shall accept the privilege to practice osteopathy or osteopathic medicine and surgery in this state shall by so practicing or by the making and filing of annual registration to so practice, be deemed to have given consent to submit to a mental or physical examination when directed in

writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitutes a privileged communication.

In any proceeding under this subsection, neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding.

**NEW SECTION.** Sec. 9. There is added to chapter 18.57 RCW a new section to read as follows:

It shall be the duty and obligation of a physician against whom a complaint is made and who is being investigated by the board to cooperate with the board as requested by it by:

- (1) Furnishing any papers or documents;
- (2) Furnishing in writing a full and complete explanation covering the matter contained in such complaint;
- (3) Appearing before the board at the time and place designated.

Should such physician fail to cooperate with the board in the manner provided in this section, such conduct shall be deemed to be unprofessional conduct.

**NEW SECTION.** Sec. 10. There is added to chapter 18.57 RCW a new section to read as follows:

In any proceedings under this chapter, neither the board nor any of its members, staff, employees, nor any appointee or employee of the department of licensing or its administrative divisions, nor the state or its elected officials, appointees, or employees, nor any individual, corporation, company, or organization giving testimony or evidence or bringing complaints or charges before the board shall be prosecuted or subject to suit in any action based upon any disciplinary proceedings or other official acts performed in good faith as members of the board or as a consequence of involvement in proceedings of the board in carrying out the provisions of this chapter.

Sec. 11. Section 4, chapter 4, Laws of 1919 as amended by section 1, chapter 110, Laws of 1959 and RCW 18.57.020 are each amended to read as follows:

A ~~((certificate))~~ license shall be issued by the director ~~((of licenses))~~ authorizing the holder thereof to practice osteopathy or osteopathic medicine and surgery, including the use of internal medicine and drugs, and shall be the only type of ~~((certificate))~~ license issued. All ~~((certificates))~~ licenses to practice osteopathy or ~~((osteopathy))~~ osteopathic medicine and surgery, including the use of internal medicine and drugs, heretofore issued shall remain in full force and effect: PROVIDED, That a license to practice osteopathy and surgery shall be deemed to be the same as a license to practice osteopathic medicine and surgery, and the former license may be exchanged for the latter license at the option of the license holder.

In order to procure a ~~((certificate))~~ license to practice ~~((osteopathy))~~ osteopathic medicine and surgery, the applicant ~~((for such certificate))~~ must file with ~~((said director;))~~ the board satisfactory testimonials of good moral character~~((;))~~ and a diploma issued by some legally chartered school of ~~((osteopathy))~~ osteopathic medicine and surgery, ~~((the requirements of which shall have been at the time of granting such diploma in no particular less than those prescribed by the American Osteopathic Association and the American Association of Osteopathic Colleges))~~ approved by the board, or satisfactory evidence of having possessed such diploma, and he must file with such diploma an application sworn to before some person authorized to administer oaths, and attested by the hand and seal of such officer, if he have a seal, stating that he is the person named in said diploma, that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination, without fraud or misrepresentation. The said application shall be made upon a ~~((blank furnished by said))~~ form prepared by the director, with the approval of the board, and it shall contain such information concerning said osteopathic medical instruction and the preliminary education of the applicant as ~~((said director))~~ the board may by rule provide. Applicants who have failed to meet the requirements must be rejected.

An applicant for a license to practice ~~((osteopathy))~~ osteopathic medicine and surgery must furnish evidence satisfactory to the board that he has served for not less than one year as ~~((interne))~~ intern or resident in a ~~((thoroughly equipped hospital which shall have had at least twenty-five beds for each interne devoted to the treatment of medical, surgical, gynecological and special diseases, and he also must have had a service of six weeks, or the equivalent thereof in the maternity department of the same or some other hospital, during which time he shall have attended or participated in the attendance upon not less than six confinements))~~ training program acceptable to the board. ~~((He shall furnish evidence that he has had sufficient experience in and a practical working knowledge of pathology, and the administering of internal medicine and drugs including anesthetics.))~~

In addition, the applicant may be required to furnish evidence satisfactory to the board that he is physically and mentally capable of safely carrying on the practice of osteopathic medicine and surgery. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice osteopathic medicine and surgery. The applicant must also show that he has not been guilty of any conduct which would constitute grounds for denial, suspension, or revocation of such license under the laws of the state of Washington.

Nothing in this section shall be construed as prohibiting the board from requiring such additional information from applicants as it deems necessary.

Nothing in this chapter shall be construed to require any applicant for licensure, or any licensee, as a requisite of retaining or renewing licensure under this chapter, to be a member of any political and/or professional organization.

Sec. 12. Section 6, chapter 4, Laws of 1919 as last amended by section 58, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.57.050 are each amended to read as follows:

Each applicant on making application shall pay the director a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended which shall be paid to the state treasurer by said director and used to defray the expenses and compensation of said director. In case the applicant's credentials are insufficient, or in case he does not desire to take the examination, the sum of fifteen dollars shall be returned. All persons licensed to practice osteopathy or ~~((osteopathy))~~ osteopathic medicine and surgery within this state who are engaged in active practice shall pay on or before the first day of May of each year to the director a renewal license fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. The board may establish rules and regulations governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. Licenses not so renewed will not be valid. The director shall thirty days or more before May 1st of each year mail to all active practitioners of osteopathy or ~~((osteopathy))~~ osteopathic medicine and surgery in this state at their last known address a notice of the fact that the renewal fee will be due on or before the first of May. Nothing in this chapter shall be construed so as to require that the receipt shall be recorded as original licenses are required to be recorded.

Sec. 13. Section 5, chapter 4, Laws of 1919 and RCW 18.57.080 are each amended to read as follows:

~~((In addition to the requirements above set forth, such))~~ Applicants for a ((certificate)) license must be personally examined by ((said director)) the board as to their qualifications. The examination shall be conducted in the English language, shall be practical in character and designed to discover the applicant's fitness to practice ~~((osteopathy))~~ osteopathic medicine and surgery, and shall be in whole or in part in writing on the following fundamental subjects, to wit: Anatomy, histology, gynecology, pathology, bacteriology, chemistry, toxicology, physiology, obstetrics, general diagnosis, hygiene, principles and practice of ~~((osteopathy))~~ osteopathic medicine, surgery, and the management of surgical cases (including anesthetics) and any other ~~((branches thereof))~~ subjects that the ((director)) board shall deem advisable~~((: PROVIDED, That those seeking a certificate to practice osteopathy and surgery shall also take an examination in surgery and the management of surgical cases (including anaesthetics) before being granted said certificate. Examination in each subject shall consist of not less than ten questions, answers to which shall be marked upon a scale of zero to ten:~~

~~All applicants must obtain not less than sixty percent in any one subject).~~  
 The examination papers shall form a part of the records of the director and shall be kept on file by the ~~((director))~~ board for a period of one year after examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until final action by the board on such application.

Sec. 14. Section 3, chapter 227, Laws of 1971 ex. sess. and RCW 18.57.085 are each amended to read as follows:

The board ~~((or committee))~~ may, in its discretion, waive the examination in basic sciences required under chapter 43.74 RCW, and the examination in clinical subjects required under RCW 18.57.080 as now or hereafter amended, of persons applying for a license to practice ~~((osteopathy or osteopathy))~~ osteopathic medicine and surgery if, in the sole discretion of the board ~~((or committee)),~~ the applicant has successfully passed an examination of equal or greater difficulty than the examination being waived.

Sec. 15. Section 17, chapter 4, Laws of 1919 as last amended by section 59, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.57.130 are each amended to read as follows:

Any person who ~~((holds a license authorizing him to practice osteopathy from a board of medical examiners heretofore existing, under the provision of any laws of this state, past or present, shall be entitled to practice osteopathy in this state the same as if issued under this chapter, and any person, who shall have))~~ meets the requirements of RCW 18.57.020 as now or hereafter amended and has been examined and licensed to practice ((osteopathy)) osteopathic medicine and surgery by a state board of ~~((osteopathic))~~ examiners of another state or the duly constituted authorities of another state authorized to issue licenses to practice ~~((osteopathy))~~ osteopathic medicine and surgery upon examination, shall upon approval of the board be entitled to receive a license to practice ~~((osteopathy))~~ osteopathic medicine and surgery in this state upon the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer and filing a copy of his license in such other state, duly certified by the authorities granting the license to be a full, true, and correct copy thereof, and certifying also that the standard of requirements adopted by such authorities as provided by the law of such state is equal to that provided for by the provisions of this chapter: PROVIDED, That no license shall issue without examination to any person who has previously failed in an examination held in this state: PROVIDED, FURTHER, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this chapter(~~:(~~ PROVIDED, FURTHER, That the term osteopathy, as used in this chapter, shall be held to be the practice and procedure as taught and recognized by the regular colleges of osteopathy): PROVIDED, FURTHER, That no

one shall be permitted to practice surgery under this chapter who has not a license ~~((therefor))~~ to practice osteopathic medicine and surgery.

Sec. 16. Section 11, chapter 4, Laws of 1919 as amended by section 2, chapter 142, Laws of 1963 and RCW 18.57.170 are each amended to read as follows:

The words "unprofessional conduct," as used in this chapter, are hereby declared to mean:

(1) The procuring, or aiding or abetting in procuring a criminal abortion.

(2) ~~((wilfully betraying of a professional secret))~~ commission of any act, whether the same be committed in the course of a licensee's relations as a physician or otherwise, and whether the same constitutes a crime or not, which creates a reasonable and substantial doubt as to the ability of the licensee to honestly or competently practice his profession. If the act constitutes a crime, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction therefor the judgment and sentence shall be conclusive evidence at any ensuing disciplinary hearing of the guilt of the respondent physician of the crime described in the indictment or information, and of violation of the statute upon which it is based.

(3) ~~((All advertising of any kind or character other than the carrying of a professional card, window or street sign))~~ The violation of any rule or regulation pertaining to advertising of osteopathic practice promulgated by the board.

(4) ~~((All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed))~~ Misrepresentation or concealment of a material fact in the obtaining of a license to practice osteopathic medicine and surgery or osteopathy, or in renewal or reinstatement thereof.

(5) ~~((Conviction of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence.))~~ The offering, undertaking, or agreeing to cure or treat disease by any secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the board.

(6) Habitual intemperance which affects a physician's practice.

(7) The ~~((personation))~~ impersonation of another licensed practitioner ~~((of a like or different name)).~~

(8) ~~((Exploiting or advertising through the press, or by the use of handbills, circulars or other periodicals, other than professional cards, giving only name, address, profession, office hours and telephone connections.))~~ Any public claim, representation, or advertisement that the licensee is practicing under any professional degree for which such licensee is not licensed to practice in this state.

(9) The possession, distribution, use, or prescription for the use of ~~((narcotic drugs)) any controlled substance as defined in chapter 69.50 RCW, or ~~((dangerous)) legend drugs ~~((described in RCW 69.40.060;)) as defined in chapter 69.41 RCW~~~~ in any way other than for therapeutic purposes.~~

(10) ~~((Repeated acts of immorality, or repeated acts of gross misconduct in the practice of the profession:~~

~~((1)) Unprofessional conduct as defined in chapter 19.68 RCW.~~

~~((2)) (11) Aiding or abetting an unlicensed person to practice osteopathy or osteopathic medicine and surgery.~~

~~((3) Declaration of mental incompetency by a court of competent jurisdiction:~~

~~((4) Fraud or deceit in the obtaining of a license to practice osteopathy:))~~

(12) Suspension or revocation of the physician's license to practice osteopathy or osteopathic medicine and surgery by competent authority in any state, federal, or foreign jurisdiction.

(13) Violation of any board rule or regulation fixing a standard of professional conduct.

(14) Wilful violation of RCW 18.57.140 or of section 9 of this 1979 act or wilful disregard of the subpoena or notice of the board.

Sec. 17. Section 7, chapter 30, Laws of 1971 ex. sess. and RCW 18.57A.010 are each amended to read as follows:

(1) "Osteopathic physician's assistant" means a person who has satisfactorily completed a board-approved training program designed to prepare persons to practice osteopathic medicine to a limited extent;

(2) "Board" means the ~~((committee))~~ board of osteopathic ~~((examiners))~~ medicine and surgery; and

(3) "Practice medicine" shall have the meaning defined in ~~((RCW 18.57.130))~~ section 1 of this 1979 act.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 10, chapter 4, Laws of 1919 and RCW 18.57.180; and

(2) Section 12, chapter 4, Laws of 1919 and RCW 18.57.240.

NEW SECTION. Sec. 19. If any provision of this 1979 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

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