

the seal of the sewer district, and any interest coupons shall be signed by the facsimile signature of the presiding officer of the board of sewer commissioners and shall be attested by the facsimile signature of the secretary of such board.

~~((There shall be levied by the officers or governing body now or hereafter charged by law with the duty of levying taxes in the manner provided by law an annual levy in excess of the constitutional and/or statutory tax limitations sufficient to meet the annual or semiannual payments of principal and interest on the said bonds maturing as herein provided upon all taxable property within such sewer district.))~~

Said bonds shall be sold in such manner as the sewer commissioners shall deem for the best interest of the sewer district, and at a price not less than par and accrued interest.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter ... RCW (sections 1 through 8 of this 1983 act).

NEW SECTION. Sec. 273. If any provision of this 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.

NEW SECTION. Sec. 274. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except sections 271 and 272 shall take effect July 1, 1985.

Passed the House April 22, 1983.

Passed the Senate April 18, 1983.

Approved by the Governor May 16, 1983, with the exception of section 52 which was vetoed.

Filed in Office of Secretary of State May 16, 1983.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 52, Substitute House Bill No. 390, entitled:

"AN ACT Relating to government borrowing."

Section 52 of this bill would duplicate section 1 of Substitute House Bill No. 189, which I already have signed.

With the exception of section 52, which I have vetoed, Substitute House Bill No. 390 is approved."

CHAPTER 168

[Substitute House Bill No. 359]

HEALTH PROFESSIONS—LICENSURE—REGULATION

AN ACT Relating to the regulation of health professions and occupations licensure; amending section 13, chapter 144, Laws of 1919 as last amended by section 8, chapter 277, Laws of

1981 and RCW 18.53.050; amending section 14, chapter 25, Laws of 1963 as last amended by section 50, chapter 158, Laws of 1979 and RCW 18.54.140; amending section 21, chapter 70, Laws of 1965 as last amended by section 48, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 18.83.051; adding a new chapter to Title 18 RCW; adding a new section to chapter 18.29 RCW; adding new sections to chapter 43.24 RCW; adding a new section to chapter 46.01 RCW; creating new sections; repealing section 13, chapter 43, Laws of 1957 and RCW 18.34.130; repealing section 10, chapter 2, Laws of 1983 and RCW 43.24.085; repealing section 29, chapter 16, Laws of 1923, section 2, chapter 47, Laws of 1969, section 31, chapter 158, Laws of 1979 and RCW 18.29.030; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The purpose of this chapter is to establish guidelines for the regulation of health professions not licensed or regulated prior to the effective date of this act and those licensed or regulated health professions which seek to substantially increase their scope of practice: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to the effective date of this act except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or state board of education under RCW 28A.04.120 and 28A.70.005; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; and (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before the effective date of this act. The legislature believes that all individuals should be permitted to enter into a health profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall, after the effective date of this act, be imposed upon any health profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a health profession for the first time should be reviewed according to the following criteria. A health profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature

finds that it is necessary to regulate a health profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the health profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

NEW SECTION. Sec. 2. The definitions contained in this section shall 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 licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; drugless healing under chapter 18.36 RCW; midwifery under chapter 18.50 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under

chapter 18.55 RCW; osteopathy under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; and registered nurses under chapter 18.88 RCW.

(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) "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.

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

(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.

NEW SECTION. Sec. 3. After the effective date of this act, if appropriate, applicant groups shall explain each of the following factors to the extent requested by the legislative committees of reference:

(1) A definition of the problem and why regulation is necessary:

(a) The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety;

(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession; and

(c) The extent of autonomy a practitioner has, as indicated by:

(i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and

(ii) The extent to which practitioners are supervised;

(2) The efforts made to address the problem:

(a) Voluntary efforts, if any, by members of the health profession to:

(i) Establish a code of ethics; or

(ii) Help resolve disputes between health practitioners and consumers;
and

(b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem;

(3) The alternatives considered:

(a) Regulation of business employers or practitioners rather than employee practitioners;

(b) Regulation of the program or service rather than the individual practitioners;

(c) Registration of all practitioners;

(d) Certification of all practitioners;

(e) Other alternatives;

(f) Why the use of the alternatives specified in this subsection would not be adequate to protect the public interest; and

(g) Why licensing would serve to protect the public interest;

(4) The benefit to the public if regulation is granted:

(a) The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation;

(b) Whether the public can identify qualified practitioners;

(c) The extent to which the public can be confident that qualified practitioners are competent:

(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering

the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system;

(ii) If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date;

(iii) The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions;

(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions; and

(v) The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met;

(d) Assurance of the public that practitioners have maintained their competence:

(i) Whether the registration, certification, or licensure will carry an expiration date; and

(ii) Whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;

(5) The extent to which regulation might harm the public:

(a) The extent to which regulation will restrict entry into the health profession:

(i) Whether the proposed standards are more restrictive than necessary to insure safe and effective performance; and

(ii) Whether the proposed legislation requires registered, certificated, or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification, and licensure when the other jurisdiction has substantially equivalent requirements for registration, certification, or licensure as those in this state; and

(b) Whether there are similar professions to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation;

(6) The maintenance of standards:

(a) Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and

(b) How the proposed legislation will assure quality:

(i) The extent to which a code of ethics, if any, will be adopted; and

(ii) The grounds for suspension or revocation of registration, certification, or licensure;

(7) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice; and

(8) The expected costs of regulation:

(a) The impact registration, certification, or licensure will have on the costs of the services to the public; and

(b) The cost to the state and to the general public of implementing the proposed legislation.

NEW SECTION. Sec. 4. This chapter may be known and cited as the Washington regulation of health professions act.

NEW SECTION. Sec. 5. There is added to chapter 43.24 RCW a new section to read as follows:

There is created in the state treasury an account within the general fund to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, or examinations shall be forwarded to the state treasurer who shall credit such moneys to the health professions account. All expenses incurred in carrying out the health professions licensing activities of the department shall be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

The director shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees.

NEW SECTION. Sec. 6. The state treasurer shall transfer the remaining fund balances within the opticians' account, the optometry account, and the state board of psychological examiners' account to the health professions account on the effective date of this act.

NEW SECTION. Sec. 7. All appropriations made to the department of licensing for the purpose of carrying out its health professions licensing activities shall be transferred and credited to the health professions account on the effective date of this act. Whenever any question arises as to the transfer of funds, including unexpended balances within any account, used or held in connection with the department's health professions licensing activities, the director of financial management shall make a determination as to the proper allocation.

Sec. 8. Section 13, chapter 144, Laws of 1919 as last amended by section 8, chapter 277, Laws of 1981 and RCW 18.53.050 are each amended to read as follows:

~~((During the month of January of each year,))~~ Every registered optometrist shall annually or on the date specified by the director pay to the state treasurer a renewal fee, to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and failure to pay such fee within the prescribed time shall cause the suspension of his or her certificate. ~~((The state treasurer shall place two dollars and forty cents from each renewal fee into the general fund and shall place the balance into an optometry account which is hereby created for the enforcement of this chapter. Any residue in such account shall be accumulated and shall not revert to the general fund at the end of any biennium.~~

~~In the event of failure to pay the renewal fee, the director shall mail a notice of such suspension to the last known post office address of the holder between the first and fifth days of February, March, and April next following and if the fee is not paid by May 1st the director may declare the certificate revoked.))~~

Sec. 9. Section 14, chapter 25, Laws of 1963 as last amended by section 50, chapter 158, Laws of 1979 and RCW 18.54.140 are each amended to read as follows:

Notwithstanding any other provisions of law, rule or regulation, the board may draw from the ~~((optometry account created and held pursuant to RCW 18.53.050,))~~ health professions account on vouchers approved by the director of licensing, so much money as is necessary to carry into effect, to administer, and to enforce the provisions of this chapter.

Sec. 10. Section 21, chapter 70, Laws of 1965 as last amended by section 48, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 18.83.051 are each amended to read as follows:

~~((There is hereby created the "state board of psychological examiners' account" within the state general fund. All moneys received under chapter 18.83 RCW by the state treasurer shall be deposited in the "state board of psychological examiners' account" within the state general fund. PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a~~

~~justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.))~~

Each member of the board shall receive the sum of twenty-five dollars for each day actually attending to the work of the board or any of its committees and for the time spent in necessary travel; and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. ~~((Any such expenses shall be paid from the "state board of psychological examiners' account" within the general fund, to the extent that the moneys are available therein.))~~

NEW SECTION. Sec. 11. There is added to chapter 46.01 RCW a new section to read as follows:

In order to provide liaison with the department of licensing, provide continuity between changes in board membership, achieve uniformity as appropriate in licensure or regulated activities under the jurisdiction of the department, and to better represent the public interest, the director, or a designee appointed by the director, shall serve as an ex officio member of every health professional licensure and/or disciplinary board established under Title 18 RCW under the administrative authority of the department of licensing. The director shall have no vote unless otherwise authorized by law.

NEW SECTION. Sec. 12. There is added to chapter 43.24 RCW a new section to read as follows:

It shall be the policy of the state of Washington that the cost of each professional, occupational or business licensing program be fully borne by the members of that profession, occupation or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations or businesses administered by the business and professions administration in the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

- (1) Section 13, chapter 43, Laws of 1957 and RCW 18.34.130; and
- (2) Section 10, chapter 2, Laws of 1983 and RCW 43.24.085.

NEW SECTION. Sec. 14. There is added to chapter 18.29 RCW a new section to read as follows:

The director of licensing shall appoint a committee of three licensed dental hygienists to prepare and conduct examinations for dental hygiene

licensure. The committee shall require an applicant for licensure to pass an examination consisting of written and practical tests upon such subjects and of such scope as the committee determines. The standards for passage of the examination shall be set by the committee.

At least two examinations shall be given each calendar year in conjunction with examinations for licensure of dentists under chapter 18.32 RCW.

NEW SECTION. Sec. 15. Section 29, chapter 16, Laws of 1923, section 2, chapter 47, Laws of 1969, section 31, chapter 158, Laws of 1979 and RCW 18.29.030 are each repealed.

****NEW SECTION. Sec. 16. Sections 14 and 15 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing institutions, and shall take effect immediately.***

*Sec. 16 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 17. If any provision of this 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.

NEW SECTION. Sec. 18. Sections 1 through 4 of this act shall constitute a new chapter in Title 18 RCW.

Passed the House April 23, 1983.

Passed the Senate April 17, 1983.

Approved by the Governor May 16, 1983, with the exception of section 16 which was vetoed.

Filed in Office of Secretary of State May 16, 1983.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one section, Substitute House Bill No. 359, entitled:

"AN ACT Relating to the regulation of health professions and occupations licensure."

Section 16 of this bill would make immediately effective the new dental hygienist examining committee. Unfortunately, the June examination has already been announced, and it would be impossible to appoint and orient the new committee in time to properly administer that examination.

By allowing the new examining committee to become effective in the normal 90 days rather than immediately, the June examination can be properly administered and the new committee smoothly established.

With the exception of Section 16, which I have vetoed, Substitute House Bill No. 359 is approved."