

(1) The legislative body of either of such contiguous corporations, upon receiving such petition signed by the qualified electors of either of such contiguous corporations equal in number to at least one-fifth of the votes cast at the last municipal general election held in such corporation requesting that a proposition with respect to the consolidation of two or more contiguous corporations be submitted to the voters, shall, within ninety days after receiving it, or the legislative bodies of any contiguous municipal corporations meeting in joint session upon their own initiative by joint resolution, cause to be submitted to the electors of each of such corporations, at a special election to be held for that purpose, the proposition of whether such corporations shall be consolidated into one corporation. The petition or joint resolution may provide that the consolidation proposition may include ~~((1))~~ (a) the form of government, ~~((2))~~ (b) provision in regard to the assumption of indebtedness, ~~((3))~~ (c) the name of the proposed corporation, and ~~((4))~~ (d) whether a community municipal corporation shall be created for the smaller city or town as provided in RCW 35.14.010 through 35.14.060, or that any one or more of these items may be submitted to the voters as a separate proposition.

(2) Whenever it is proposed that a first class city and two noncharter code cities, all three with council-manager forms or plans of government, consolidate under this section, the consolidation shall proceed under chapter 35A.05 RCW. A petition, otherwise valid, that proposes such a consolidation under this section, shall validly authorize the effort to consolidate as provided in this subsection.

NEW SECTION. Sec. 3. 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.

Passed the House February 4, 1984.

Passed the Senate February 17, 1984.

Approved by the Governor February 20, 1984.

Filed in Office of Secretary of State February 20, 1984.

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## CHAPTER 9

[Engrossed Substitute Senate Bill No. 3074]

### OCCUPATIONAL THERAPISTS

AN ACT Relating to occupational therapists; amending section 2, chapter 168, Laws of 1983 and RCW 18.120.020; adding a new chapter to Title 18 RCW; prescribing penalties; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. This chapter shall be known and may be cited as the occupational therapy practice act.

NEW SECTION. Sec. 2. In order to safeguard the public health, safety, and welfare; to protect the public from being misled by incompetent, unethical, and unauthorized persons; to assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants; and to assure the availability of occupational therapy services of high quality to persons in need of such services, it is the purpose of this chapter to provide for the regulation of persons offering occupational therapy services to the public.

NEW SECTION. Sec. 3. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the board of occupational therapy practice.

(2) "Occupational therapy" is the scientifically based use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. The practice encompasses evaluation, treatment, and consultation. Specific occupational therapy services include but are not limited to: Using specifically designed activities and exercises to enhance neurodevelopmental, cognitive, perceptual motor, sensory integrative, and psychomotor functioning; administering and interpreting tests such as manual muscle and sensory integration; teaching daily living skills; developing prevocational skills and play and avocational capabilities; designing, fabricating, or applying selected orthotic and prosthetic devices or selected adaptive equipment; and adapting environments for the handicapped. These services are provided individually, in groups, or through social systems.

(3) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter.

(4) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the supervision or with the regular consultation of an occupational therapist.

(5) "Occupational therapy aide" means a person who is trained to perform specific occupational therapy techniques under professional supervision as defined by the board but who does not perform activities that require advanced training in the sciences or practices involved in the profession of occupational therapy.

(6) "Person" means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this chapter.

(7) "Department" means the department of licensing.

(8) "Director" means the director of licensing.

NEW SECTION. Sec. 4. No person may practice occupational therapy or hold oneself out as an occupational therapist or occupational therapy

assistant, or as being able to practice occupational therapy, or to render occupational therapy services in this state unless the person is licensed in accordance with, or is in compliance with, this chapter.

**NEW SECTION.** Sec. 5. This chapter shall not be construed as preventing or restricting the practice, services, or activities of:

(1) A person licensed in this state under any other law from engaging in the profession or occupation for which the person is licensed;

(2) A person employed as an occupational therapist or occupational therapy assistant by the government of the United States, if the person provides occupational therapy solely under the directions or control of the organization by which the person is employed;

(3) A person pursuing a course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program if the activities and services constitute a part of a supervised course of study, if the person is designated by a title which clearly indicated the person's status as a student or trainee;

(4) A person fulfilling the supervised fieldwork experience requirements of section 6 of this act, if the activities and services constitute a part of the experience necessary to meet the requirements of section 6 of this act;

(5) A person performing occupational therapy services in the state, if the services are performed for no more than ninety working days and if:

(a) The person is licensed under the laws of another state which has licensure requirements at least as stringent as the requirements of this chapter, as determined by the board; or

(b) The person has met commonly accepted standards for the practice of occupational therapy as specifically defined by the board;

(6) A person employed by or supervised by an occupational therapist as an occupational therapy aide; or

(7) A person with a limited permit. A limited permit may be granted to persons who have completed the education and experience requirements of this chapter, or education and experience requirements which the board deems equivalent to those specified as requirements for licensure. The limited permit allows the applicant to practice in association with an occupational therapist. The limited permit is valid until the results of the next examination have been made public. One extension of this permit may be granted if the applicant has failed the examination, but during this period the person shall be under the direct supervision of an occupational therapist.

**NEW SECTION.** Sec. 6. (1) An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application on forms provided by the department showing to the satisfaction of the board that the applicant meets the requirements specified in this subsection.

(a) The applicant shall be of good moral character.

(b) The applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, with concentration in biological or physical science, psychology, sociology, and with education in selected manual skills.

(i) For an occupational therapist, such a program shall be nationally accredited and approved by rules of the board.

(ii) For an occupational therapy assistant, such a program shall be nationally accredited and approved by rules of the board.

(c) The applicant shall submit to the board evidence of having successfully completed a period of supervised fieldwork experience at a recognized educational institution or a training program approved by the educational institution at which the applicant met the academic requirements.

(i) For an occupational therapist, a minimum of six months of supervised fieldwork experience is required.

(ii) For an occupational therapy assistant, a minimum of two months of supervised fieldwork experience is required.

(d) An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided in section 7 of this act.

(2) The board may waive the educational requirements specified under subsection (1)(b)(ii) of this section for an occupational therapy assistant who has met the experience and any other requirements established by the board. Upon successful completion of the examination required of the occupational therapist, the individual shall be granted a license.

NEW SECTION. Sec. 7. (1) A person applying for licensure shall demonstrate eligibility in accordance with section 6 of this act and shall apply for examination upon a form and in such a manner as the department prescribes. The application shall be accompanied by the fee prescribed by section 12 of this act, which fee shall not be refunded. A person who fails an examination may apply for reexamination. The application shall be accompanied by the prescribed fee.

(2) An applicant for licensure under this chapter shall be given a written examination to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy and occupational therapy theory and practice, including the applicant's professional skills of occupational therapy techniques and methods, and such other subjects as the board deems useful to determine the applicant's fitness to practice. The board shall approve the examination and establish standards for acceptable performance.

(3) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. The examination shall be given at least twice each year at such places as the board determines,

and the board shall give reasonable public notice of the examinations in accordance with its rules at least sixty days prior to the administration of the examination.

(4) Applicants may obtain their examination scores and may review their papers in accordance with such rules as the board establishes.

NEW SECTION. Sec. 8. (1) The board shall waive the examination and grant a license to a person engaged in the profession of an occupational therapist or an occupational therapy assistant on the effective date of this act if the board determines that the person meets commonly accepted standards for the profession, as established by rule of the board. The board may waive the examination, education, or experience requirements and grant a license to any person meeting the standards adopted by the board under this section after the effective date of this act if the board considers the requirements for licensure in this chapter as having been met.

(2) The board may grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States, which requires standards for licensure considered by the board to be equivalent to the requirements for licensure under this chapter.

(3) The board shall waive the education and experience requirements for licensure in section 6(1) (c) and (d) of this act for applicants for licensure who present evidence to the board that they have been engaged in the practice of occupational therapy for the three years immediately prior to the effective date of this act. The proof of actual practice shall be presented to the board in such a manner as the board prescribes by rule. To obtain the waiver, an applicant shall file an application for examination no later than six months from the effective date of this act. An applicant who has filed for examination under this subsection shall be excluded from the licensure requirement until the date the results of the examination are made public, and may conduct the appropriate activities under section 4 of this act.

NEW SECTION. Sec. 9. The director shall issue a license to a person who meets the licensing requirements of this chapter upon payment of the prescribed license fee. The license shall be posted in a conspicuous location at the person's work site.

NEW SECTION. Sec. 10. (1) Licenses under this chapter shall be renewed at the time and in the manner determined by the director and with the payment of a renewal fee. The board may establish requirements for license renewal which provide evidence of continued competency. The director may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules which may include additional continuing education or examination requirements.

(2) A suspended license is subject to expiration and may be renewed as provided in this section, but the renewal does not entitle the licensee, while

the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any applicable late fee.

(3) Any occupational therapist or occupational therapy assistant licensed under this chapter not practicing occupational therapy or providing services may place his or her license in an inactive status. The director may prescribe requirements for maintaining an inactive status and converting from an inactive or active status.

NEW SECTION. Sec. 11. (1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions if the licensee or applicant for a license has been guilty of conduct which has endangered the health, welfare, or safety of the public. Such conduct includes:

(a) Obtaining a license by means of fraud or misrepresentation or concealment of material facts;

(b) Being guilty of unprofessional conduct or gross incompetence as defined by the rules of the board, or violating the code of ethics adopted and published by the board, which shall require that an occupational therapist shall, after evaluating a patient and if the case is a medical one, refer the case to a physician for appropriate medical direction if such direction is lacking. Treatment by an occupational therapist of such a medical case may take place only upon the referral of a physician or podiatrist licensed to practice medicine in this state;

(c) Being convicted of a crime of moral turpitude or a felony which relates to the profession of occupational therapy;

(d) Violating an order or rule of the board; or

(e) Violating any provision of this chapter.

(2) Such denial, refusal to renew, suspension, revocation, or imposition of probationary conditions on a licensee may be ordered by the board in compliance with chapter 34.04 RCW. One year from the date of revocation of a license, application may be made to the board for reinstatement. The board has discretion to accept or reject an application for reinstatement and may, but is not required to, hold a hearing to consider the reinstatement.

NEW SECTION. Sec. 12. The director shall prescribe and publish fees in amounts determined by the director as provided in RCW 43.24.085 for the following purposes:

(1) Application for examination;

(2) Initial license fee;

(3) Renewal of license fee;

(4) Late renewal fee; and

(5) Limited permit fee.

The fees shall be set in such an amount as to reimburse the state, to the extent feasible, for the cost of the services rendered.

**NEW SECTION.** Sec. 13. (1) There is established a board of occupational therapy practice. The board shall consist of five members appointed by the governor, who may consider the persons who are recommended for appointment by occupational therapy associations of the state. The members of the board shall be residents of the state. Four of the members shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointment. Three of these four board members shall be occupational therapists who shall at all times be holders of licenses for the practice of occupational therapy in the state, except for the initial members of the board, all of whom shall fulfill the requirements for licensure under this chapter. At least one member of the board shall be an occupational therapy assistant licensed to assist in the practice of occupational therapy, except for the initial member appointed to this position, who shall fulfill the requirements for licensure as a occupational therapy assistant under this chapter. The remaining member of the board shall be a member of the public with an interest in the rights of consumers of health services.

(2) The governor shall, within sixty days after the effective date of this act, appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years. Appointments made thereafter shall be for three-year terms, but no person shall be appointed to serve more than two consecutive full terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the initial appointed members, who shall serve through the last calendar day of the year in which they are appointed before commencing the terms prescribed by this section. The governor shall make appointments for vacancies in unexpired terms within ninety days after the vacancies occur.

(3) The board shall meet during the first month of each calendar year to select a chairman and for other purposes. At least one additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chairman or the written request of any two board members. A majority of members of the board constitutes a quorum for all purposes. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade, or administer examinations or, upon request of an applicant who fails an examination, to prepare a response indicating the reasons for the applicant's failure.

(4) Members of the board shall receive compensation in the amount of fifty dollars for each day's attendance at proper meetings of the committee.

**NEW SECTION.** Sec. 14. (1) The board shall administer, coordinate, and enforce this chapter, evaluate qualifications under this chapter, and

provide for supervision of examinations of applicants for licensure under this chapter. The board may issue subpoenas, examine witnesses, and administer oaths and may investigate allegations of practices violating this chapter.

(2) The board shall adopt rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state in accordance with chapter 34.04 RCW.

(3) The board shall conduct such hearings and keep such records and minutes as are necessary to carry out its functions. The board shall provide at least thirty days' notice in writing to the appropriate persons of the times and places of all hearings authorized under this chapter in such a manner and at such times as it may determine by its rules.

NEW SECTION. Sec. 15. The director shall provide such administrative and investigative staff as are necessary for the board to carry out its duties under this chapter.

NEW SECTION. Sec. 16. A person who violates section 4 of this act is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars, or imprisonment in the county jail for a period not exceeding ninety days, or both such fine and imprisonment. The court may impose a civil fine of up to one thousand dollars for any violation of section 4 of this act.

NEW SECTION. Sec. 17. There is added to chapter 18.\_\_\_\_ RCW (SSB 3074, Laws of 1984) a new section to read as follows:

The board of occupational therapy practice may elect to adopt the uniform disciplinary act (Sections 1 through 24 of SHB 1178) in lieu of the disciplinary procedures outlined under this chapter.

Sec. 18. Section 2, chapter 168, Laws of 1983 and RCW 18.120.020 are each amended to read as follows:

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; and occupational therapists licensed pursuant to chapter 18. ... RCW (SSB 3074, Laws of 1984).

(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. 19. Sections 1 through 16 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 20. There is appropriated from the general fund to the department of licensing for the biennium ending June 30, 1985, the sum of thirty-two thousand dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 21. 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. 22. 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.***

\*Sec. 22 was vetoed, see message at end of chapter.

Passed the Senate February 14, 1984.

Passed the House February 9, 1984.

Approved by the Governor February 21, 1984, with the exception of section 22, which was vetoed.

Filed in Office of Secretary of State February 21, 1984.

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

"I am returning herewith, without my approval as to section 22 Engrossed Substitute Senate Bill No. 3074, entitled:

"AN ACT Relating to occupational therapists."

This bill would forbid the practice of occupational therapy in this state without state licensure. The bill contains an emergency clause.

I have vetoed the emergency clause. The Department of Licensing will have a difficult time implementing this law properly with an immediate effective date. Indeed, even without an emergency clause implementation will be rushed.

With the exception of section 22, Engrossed Substitute Senate Bill No. 3074 is approved.