

This bill establishes a policy of open competition for all personal service contracts and directs the Office of Financial Management to establish procedures for competitive solicitation, record-keeping, reporting and filing of contracts to implement this bill.

Section 12 declares an emergency and directs that the bill take effect immediately. The Office of Financial Management must have time to establish the required procedures and communicate these new procedures to all state agencies, institutions, boards and commissions. Allowing this bill to become effective upon signing, with no procedures established, would result in confusion for state agencies attempting to carry on their contracting activities and comply with new requirements which have not been fully developed. A normal ninety day effective date will allow the program to be fully developed and give agencies the opportunity to understand the new procedures which should assist compliance.

With the exception of section 12, Engrossed Substitute House Bill No. 88 is approved."

CHAPTER 415

[Substitute House Bill No. 767]

RESPIRATORY CARE PRACTITIONERS—CERTIFICATION

AN ACT Relating to respiratory care; reenacting and amending RCW 18.120.020 and 18.130.040; adding a new chapter to Title 18 RCW; making an appropriation; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that it is necessary to regulate the practice of respiratory care at the level of certification in order to protect the public health and safety. The settings for these services may include, health facilities licensed in this state, clinics, home health agencies, physicians' offices, and public or community health services. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Advisory committee" means the Washington state advisory respiratory care committee.

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

(3) "Director" means the director of licensing or the director's designee.

(4) "Respiratory care practitioner" means an individual certified under this chapter.

(5) "Physician" means an individual licensed under chapter 18.57 or 18.71 RCW.

(6) "Rural hospital" means a hospital located anywhere in the state except the following areas:

(a) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(b) Areas within a twenty-mile radius of an urban area with a population exceeding thirty thousand persons; and

(c) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

***NEW SECTION. Sec. 3. An entity or person shall not employ or contract with persons engaging in respiratory care as respiratory care practitioners that have not received a certificate to practice respiratory care in the state. Rural hospitals are exempt from this chapter. Nothing in this chapter prohibits or restricts:**

(1) The practice of a profession by individuals who are licensed under other laws of this state who are performing services within their authorized scope of practice, which may overlap the services provided by respiratory care practitioners;

(2) The practice of respiratory care by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed for him or her by the laws and regulations of the United States;

(3) The practice of respiratory care by a person pursuing a supervised course of study leading to a degree or certificate in respiratory care as a part of an accredited and approved educational program, if the person is designated by a title which clearly indicates his or her status as a student or trainee, or otherwise as a student;

(4) The use of the title "respiratory care practitioner" by registered nurses authorized under chapter 18.88 RCW.

***Sec. 3 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 4. A respiratory care practitioner is a person who adopts or uses any title or any description of services which incorporates one or more of the following terms or designations: (1) RT, (2) RCP, (3) respiratory care practitioner, (4) respiratory therapist, (5) respiratory technician, (6) inhalation therapist, or (7) any other words, abbreviation, or insignia indicating that he or she is a respiratory care practitioner.

NEW SECTION. Sec. 5. A respiratory care practitioner certified under this chapter is employed in the treatment, management, diagnostic testing, rehabilitation, and care of patients with deficiencies and abnormalities which affect the cardiopulmonary system and associated aspects of other systems, and is under the direct order and under the qualified medical direction of a physician. The practice of respiratory care includes, but is not limited to:

- (1) The use and administration of medical gases, exclusive of general anesthesia;
- (2) The use of air and oxygen administering apparatus;
- (3) The use of humidification and aerosols;
- (4) The administration of prescribed pharmacologic agents related to respiratory care;
- (5) The use of mechanical or physiological ventilatory support;
- (6) Postural drainage, chest percussion, and vibration;
- (7) Bronchopulmonary hygiene;
- (8) Cardiopulmonary resuscitation as it pertains to establishing airways and external cardiac compression;
- (9) The maintenance of natural and artificial airways and insertion, without cutting tissues, of artificial airways, as ordered by the attending physician;
- (10) Diagnostic and monitoring techniques such as the measurement of cardiorespiratory volumes, pressures, and flows; and
- (11) The drawing and analyzing of arterial, capillary, and mixed venous blood specimens as ordered by the attending physician or an advanced registered nurse practitioner as authorized by the board of nursing under chapter 18.88 RCW.

NEW SECTION. Sec. 6. (1) In addition to any other authority provided by law, the director, in consultation with the advisory committee, may:

- (a) Adopt rules, in accordance with chapter 34.04 RCW, necessary to implement this chapter;
- (b) Set all certification, examination, and renewal fees in accordance with RCW 43.24.086;
- (c) Establish forms and procedures necessary to administer this chapter;
- (d) Issue a certificate to any applicant who has met the education, training, and examination requirements for certification;
- (e) Hire clerical, administrative, and investigative staff as needed to implement this chapter and hire individuals certified under this chapter to serve as examiners for any practical examinations;
- (f) Approve those schools from which graduation will be accepted as proof of an applicant's eligibility to take the certification examination;
- (g) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification;
- (h) Determine whether alternative methods of training are equivalent to formal education and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take the examination;

(i) Determine which states have legal credentialing requirements equivalent to those of this state and issue certificates to individuals legally credentialed in those states without examination; and

(j) Define and approve any experience requirement for certification.

(2) The provisions of chapter 18.130 RCW shall govern the issuance and denial of certificates, uncertified practice, and the disciplining of persons certified under this chapter. The director shall be the disciplining authority under this chapter.

NEW SECTION. Sec. 7. The director shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for certification under this chapter, with the result of each application.

NEW SECTION. Sec. 8. (1) There is created a state respiratory care advisory committee consisting of five members appointed by the director. Three members of the advisory committee shall be respiratory care practitioners who are certified under this chapter. The initial members, however, may be appointed to the advisory committee if they meet all the requirements for certification under this chapter and have been engaged in the practice of respiratory care for at least five years. One member of the advisory committee shall be an individual representing the public who is unaffiliated with the profession. One member of the advisory committee shall be a physician, who is a pulmonary specialist. Each member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first taking office shall expire, as designated at the time of appointment, one at the end of the first year, one at the end of the second year, one at the end of the third year, and two at the end of the fourth year after the date of appointment. Thereafter all appointments shall be for four years. Any advisory committee member may be removed for just cause. The director may appoint a new member to fill any vacancy on the advisory committee for the remainder of the unexpired term. No advisory committee member may serve more than two consecutive terms, whether full or partial.

(2) Advisory committee members shall be entitled to be compensated in accordance with RCW 43.03.240, and to be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(3) The advisory committee shall have the authority to elect annually a chairperson and vice-chairperson to direct the meetings of the advisory committee. The advisory committee shall meet at least once each year, and may hold additional meetings as called by the director or the chairperson. Three members of the advisory committee constitute a quorum.

NEW SECTION. Sec. 9. The director, members of the advisory committee, or individuals acting on their behalf are immune from suit in any civil action based on any certification or disciplinary proceedings, or other official acts performed in the course of their duties.

NEW SECTION. Sec. 10. The director shall issue a certificate to any applicant who demonstrates to the director's satisfaction that the following requirements have been met:

(1) Graduation from a school approved by the director or successful completion of alternate training which meets the criteria established by the director;

(2) Successful completion of an examination administered or approved by the director;

(3) Successful completion of any experience requirement established by the director;

(4) Good moral character.

In addition, applicants shall be subject to the grounds for denial or issuance of a conditional certificate under chapter 18.130 RCW.

A person who meets the qualifications to be admitted to the examination for certification as a respiratory care practitioner may practice as a respiratory care practitioner under the supervision of a respiratory care practitioner certified under this chapter between the date of filing an application for certification and the announcement of the results of the next succeeding examination for certification if that person applies for and takes the first examination for which he or she is eligible.

The director shall establish by rule what constitutes adequate proof of meeting the criteria.

NEW SECTION. Sec. 11. The director shall approve only those persons who have achieved the minimum level of competency as defined by the director. The director shall establish by rule the standards and procedures for approval of alternate training and shall have the authority to contract with individuals or organizations having expertise in the profession, or in education, to assist in evaluating those applying for approval. The standards and procedures set shall apply equally to schools and training within the United States and those in foreign jurisdictions.

NEW SECTION. Sec. 12. (1) The date and location of the examination shall be established by the director. Applicants who have been found by the director to meet the other requirements for certification shall be scheduled for the next examination following the filing of the application. However, the applicant shall not be scheduled for any examination taking place sooner than sixty days after the application is filed.

(2) The director shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently, and shall meet generally accepted standards of fairness and validity for certification examinations.

(3) All examinations shall be conducted by the director, and all grading of the examinations shall be under fair and wholly impartial methods.

(4) Any applicant who fails to make the required grade in the first examination is entitled to take up to three subsequent examinations, upon the prepayment of a fee determined by the director as provided in RCW 43.24.086 for each subsequent examination. Upon failure of four examinations, the director may invalidate the original application and require such remedial education as is deemed necessary.

(5) The director may approve an examination prepared and administered by a private testing agency or association of credentialing boards for use by an applicant in meeting the certification requirement.

NEW SECTION. Sec. 13. Applications for certification shall be submitted on forms provided by the director. The director may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for certification provided in this chapter and chapter 18.130 RCW. All applications shall be accompanied by a fee determined by the director under RCW 43.24.086.

NEW SECTION. Sec. 14. (1) The director shall waive the examination and grant a certificate to a person engaged in the profession of respiratory care in this state on the effective date of this section, if the director determines the person meets commonly accepted standards of education and experience for the profession and has previously achieved an acceptable grade on an approved examination administered by a private testing agency or respiratory care association as established by rule of the director.

(2) If an individual is engaged in the practice of respiratory care on the effective date of this section but has not achieved an acceptable grade on an approved examination administered by a private testing agency, the individual may apply to the director for examination. This section shall only apply to those individuals who file an application within one year of the effective date of this section.

NEW SECTION. Sec. 15. The director shall establish by rule the requirements and fees for renewal of certificates. Failure to renew shall invalidate the certificate and all privileges granted by the certificate. In the event a certificate has lapsed for a period longer than three years, the certified respiratory care practitioner shall demonstrate competence to the satisfaction of the director by continuing education or under the other standards determined by the director.

Sec. 16. Section 3, chapter 117, Laws of 1985 and section 28, chapter 326, Laws of 1985 and RCW 18.120.020 are each reenacted and 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 health and health-related 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; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery 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; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.— RCW (sections 1 through 15 of this 1987 act); veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; and acupuncturists certified under chapter 18.06 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.

Sec. 17. Section 4, chapter 279, Laws of 1984 as amended by section 29, chapter 326, Laws of 1985 and by section 3, chapter 259, Laws of 1986 and RCW 18.130.040 are each reenacted and amended to read as follows:

(1) This chapter applies only to the director and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

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

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Drugless healers licensed under chapter 18.36 RCW;
- (iii) Midwives licensed under chapter 18.50 RCW;
- (iv) Ocularists licensed under chapter 18.55 RCW;
- (v) Massage operators and businesses licensed under chapter 18.108 RCW;
- (vi) Dental hygienists licensed under chapter 18.29 RCW; ((and))
- (vii) Acupuncturists certified under chapter 18.106 RCW; and
- (viii) Respiratory care practitioners certified under chapter 18.—
RCW (sections 1 through 15 of this 1987 act).

(b) The boards having authority under this chapter are as follows:

- (i) The podiatry board as established in chapter 18.22 RCW;
- (ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;
- (iii) The dental disciplinary board as established in chapter 18.32 RCW;
- (iv) The board of funeral directors and embalmers as established in chapter 18.39 RCW;
- (v) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
- (vi) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
- (vii) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
- (viii) The board of physical therapy as established in chapter 18.74 RCW;
- (ix) The board of occupational therapy practice as established in chapter 18.59 RCW;
- (x) The board of practical nursing as established in chapter 18.78 RCW;
- (xi) The board of nursing as established in chapter 18.88 RCW; and
- (xii) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of

medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

NEW SECTION. Sec. 18. Sections 1 through 15 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 19. There is appropriated from the health professions account in the state general fund to the department of licensing for the biennium ending June 30, 1989, the sum of one hundred sixty-one thousand eight hundred forty-five dollars, or so much thereof as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 20. Section 4 of this act shall take effect September 15, 1987. This act shall not affect respiratory care practitioners employed by rural hospitals until September 15, 1988.

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.

Passed the House April 22, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

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

"I am returning herewith, without my approval as to section 3, Substitute House Bill No. 767, entitled:

"AN ACT Relating to respiratory care."

This bill provides for a certification system for respiratory care practitioners under the Department of Licensing. The Director may issue a certificate to any applicant who has graduated from an approved school or successfully completed alternative training which meets the criteria established, and may give an examination, and require completion of experience requirements.

This bill appears to be a certification-only regulation, i.e. limiting who can use a title, except for language contained in section 3 which makes the bill operate like a licensing regulation. This section says "An entity or person shall not employ or contract with persons engaging in respiratory care as respiratory care practitioners that have not received a certificate to practice. . ." This is not consistent with the other sections of the bill which provide for certification. Also, it is not appropriate to take a group such as this which has not previously been regulated and impose on them the most rigorous regulating standard, i.e. licensing.

I would also note that section 3 becomes effective 90 days after the adjournment of the legislature while section 4, which adopts the certification approach and requires certification for anyone who "uses any title" involving respiratory care, is not effective until September 15, 1987.

By vetoing section 3 of this bill, I am leaving intact a certification approach for respiratory care practitioners. However, I am rejecting the licensing approach for the reasons set forth above.

With the exception of section 3, Substitute House Bill No. 767 is approved."

CHAPTER 416

[Engrossed Substitute Senate Bill No. 5857]
IMPAIRED PHYSICIAN PROGRAM

AN ACT Relating to the professional discipline of physicians; adding new sections to chapter 18.72 RCW; adding a new section to chapter 42.17 RCW; making an appropriation; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 2 through 6 of this act.

(1) "Board" means the medical disciplinary board of this state.

(2) "Committee" means a nonprofit corporation formed by physicians who have expertise in the areas of alcoholism, drug abuse, or mental illness and who broadly represent the physicians of the state and that has been designated to perform any or all of the activities set forth in section 2(1) of this act pursuant to rules adopted by the board under chapter 34.04 RCW.

(3) "Impaired" or "impairment" means the presence of the diseases of alcoholism, drug abuse, or mental illness.

(4) "Impaired physician program" means the program for the detection, intervention, and monitoring of impaired physicians established by the board pursuant to section 2(1) of this act.

(5) "Physician" means a person licensed under chapter 18.71 RCW.

(6) "Treatment program" means a plan of care and rehabilitation services provided by those organizations or persons authorized to provide such services to be approved by the board for impaired physicians taking part in the impaired physician program created by section 2 of this act.

NEW SECTION. Sec. 2. (1) The board shall enter into a contract with the committee to implement an impaired physician program. The impaired physician program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired physicians to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired physicians including those ordered by the board;

(f) Providing post-treatment monitoring and support of rehabilitative impaired physicians; and