

CHAPTER 283

[Engrossed Substitute Senate Bill No. 3315]

EDUCATIONAL SERVICES REGISTRATION—BARBER, COSMETOLOGY
SCHOOLS, EXEMPTION

AN ACT Relating to education; amending section 3, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05.030; amending section 4, chapter 188, Laws of 1979 ex. sess. as amended by section 1, chapter 82, Laws of 1980 and RCW 28B.05.040; amending section 13, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05.130; amending section 14, chapter 75, Laws of 1923 as last amended by section 13, chapter 158, Laws of 1979 and RCW 18.15.090; amending section 4, chapter 180, Laws of 1951 as last amended by section 4, chapter 3, Laws of 1965 ex. sess. and RCW 18.18.070; creating new sections; adding a new section to chapter 18.15 RCW; and adding a new section to chapter 18.18 RCW.

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

Section 1. Section 3, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05.030 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter, unless the context clearly indicates to the contrary:

(1) "Educational institution" includes, but is not limited to, an academic, vocational, technical, home study, business, professional, or other school, institution, college, or university, or other organization or person not exempted under RCW 28B.05.040, offering educational credentials, instruction, or services primarily to persons who have completed or terminated their secondary education, or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives.

(2) "To operate", means to establish, keep, or maintain any facility or location in this state where, from, or through which education is offered or educational credentials are offered or granted, and includes contracting for the performance of any such act.

(3) "To offer" includes, in addition to its usual meanings, to advertise, or publicize. "To offer" shall also mean to solicit or encourage any person, directly or indirectly, to perform the act described.

(4) "To grant" includes to award, issue, sell, confer, bestow, or give.

(5) "Education" or "educational services" includes but is not limited to, any class, course, or program of training, instruction, or study.

(6) "Chief administrative officer" means the person designated by the institution under RCW 28B.05.070.

(7) "Agent" means a person owning an interest in, employed by, or representing for remuneration an educational institution within or without this state, who enrolls or personally attempts to secure the enrollment in such school of a resident of this state, offers to award educational credentials for remuneration on behalf of any such school, or holds himself or herself out to residents of this state as representing an educational institution for any such purpose.

(8) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.

(9) "Entity" includes but is not limited to a person, company, firm, society, association, partnership, corporation, and trust.

(10) "Degree granting institution" shall mean an educational institution, which offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level. (~~"Degree granting institution" shall also include any other educational institution which is not a "private vocational school".~~)

(11) "Private vocational school" shall mean an educational institution, the objective of which is to prepare persons to enter, continue in, or upgrade themselves in gainful employment in recognized occupations which are not designated as professional or requiring a baccalaureate or higher degree.

(12) "Private nonvocational school" shall mean any educational institution that is not a "degree granting institution" or a "private vocational school."

(13) "Dual purpose institution" shall mean any educational institution which satisfies the definitions of both (a) "degree-granting institution" and (b) "private vocational school" or "private nonvocational school." Either the council for postsecondary education or the commission for vocational education may be selected by the "dual purpose institution" for purposes of complying with the requirements of RCW 28B.05.080, 28B.05.090, 28B.05.100 and 28B.05.110.

~~((+3))~~ (14) "Agency" shall mean the council for postsecondary education in the case of degree granting institutions and the commission for vocational education in the case of private vocational schools and private nonvocational schools.

Sec. 2. Section 4, chapter 188, Laws of 1979 ex. sess. as amended by section 1, chapter 82, Laws of 1980 and RCW 28B.05.040 are each amended to read as follows:

Notwithstanding any other exemption provision in this section, no institution or organization shall advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's catalog: PROVIDED, That this prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions that offer other educational credentials requiring enrollment in and successful completion of a prescribed program of study, in compliance with the requirements of this chapter. The following education and institutions are exempted from the provisions of this chapter:

(1) Education sponsored by bona fide trade, business, professional, or fraternal organizations primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Education solely avocational or recreational in nature and institutions offering such education exclusively;

(3) Education offered by charitable institutions, organizations, or agencies: PROVIDED, That such education is not advertised or promoted as leading toward educational credentials;

(4) Institutions that are established, operated, and governed by this state or its political subdivisions under the provisions of Titles 28A, 28B and 28C RCW;

(5) Institutions that have been accredited by any accrediting association recognized by the agency for the purposes of *this act: PROVIDED, That an institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption.

(6) Any other institution to the extent that it has been exempted from some or all of the provisions of this chapter in accordance with the (~~hardship~~) agency exemption procedure in RCW 28B.05.130.

(7) Institutions not otherwise exempt that are of a religious character, but only as to those education programs exclusively devoted to religious or theological objectives, and that are represented in an accurate manner in institutional catalogs or other official publications.

(8) Educational institutions that are certified by the Federal Aviation Administration under 14 CFR 141 and those educational institutions certified under 14 CFR 61 which offer instruction solely for avocational or recreational purposes.

(9) Educational institutions that are licensed by the state of Washington under chapter 18.15 RCW and chapter 18.18 RCW.

Sec. 3. Section 13, chapter 188, Laws of 1979 ex. sess. and RCW 28B.05.130 are each amended to read as follows:

~~((The agency, after hearing, by order approved and ratified by a majority of the membership of the agency, may suspend or modify any of the registration or other requirements contained in this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that such suspension or modification will not frustrate the purposes of this chapter.))~~ The executive director or executive coordinator of the agency may suspend or modify any of the registration or other requirements contained in this chapter in a particular case if the executive director or executive coordinator finds (1) that such suspension or modification will not frustrate the purposes of this chapter and (2) that the educational services to be offered address a substantial,

demonstrated need among residents of the state of Washington or that literal application of this chapter works a manifestly unreasonable hardship on the educational institution: PROVIDED, That the chief administrative officer of the institution, after hearing, shall be entitled to appeal the decision of the executive director or executive coordinator to the commission for vocational education or the council for postsecondary education.

Sec. 4. Section 14, chapter 75, Laws of 1923 as last amended by section 13, chapter 158, Laws of 1979 and RCW 18.15.090 are each amended to read as follows:

Any firm, corporation or person desiring to conduct or operate a barber school or barber college in this state shall first secure from the director of licensing a permit to do so, and shall keep the same prominently displayed. No barber school or college shall be issued a permit by the director of licensing unless such school or college: (1) Is financially ((responsible, and will be)) sound and capable of meeting its legal financial obligations and fulfilling its commitments to students; (2) is able in the judgment of the director to carry out and perform any contract made for the instruction of students therein; (3) provides students and other interested persons with a catalog or brochure containing information describing (a) enrollment qualifications, (b) programs offered, (c) program objectives, (d) length of program, (e) schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, and (f) cancellation and refund policies; all such information under subsections (a) through (f) above shall be provided prospective students prior to enrollment as well as such other material facts concerning the school or college and the program as are reasonably likely to affect the decision of the student to enroll in the school or college, together with any other disclosures specified by the director of licensing and defined in the department rules; (3) maintains adequate records to document student performance and progress; (4) will not engage in, nor will agents of the school or college engage in, methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair; (5) has established, consistent with guidelines adopted by the director, a fair and equitable cancellation and refund policy that includes provisions for a cooling-off period, and will not make unilateral changes in scheduled times for course instruction unless provision is made for an equitable refund of tuition and fees; this subsection (5) shall not apply to an accredited school or college; and (6) has on file with the director of licensing a surety bond in a form acceptable to the director.

For purposes of this section, an "accredited school or college" shall mean a school or college which is accredited by an accrediting association recognized by the commission for vocational education pursuant to RCW 28B.05.040(5).

Such school or college shall instruct students therein in the practice of barbering, including shaving and cutting of the hair and beard, and the

various services incident thereto, preparation and care of tools used, sanitation as applied to barbering, knowledge concerning the common diseases of the face and skin to avoid aggravation and spreading thereof in the practice of barbering, and the use of chemicals, creams, lotions, and solutions as applied in the practice of barbering. Such barber school or college shall be managed and operated by a barber duly licensed as a manager-instructor under the provisions of this chapter, and shall at all times, while open and in operation, be in charge and under the direct supervision of a barber duly licensed as an instructor or manager-instructor under the provisions of this chapter.

Every school or college shall at all times maintain one barber duly licensed as a manager-instructor or instructor, and there shall be at least one such licensed instructor or manager-instructor for each twenty students or fraction thereof, in attendance; and there shall be at least one such instructor or manager-instructor on the floor at all times when the barber school or college is open to serve the public, which said instructor or manager-instructor shall devote his entire time to the instruction of students therein and who shall at no time operate any particular barber's chair in such school or college, or practice any barbering therein except while giving instructions to a student therein. Every such school or college shall at all times maintain on each window therein, facing upon any street, a sign in plain letters at least six inches high composed of the words "barber school" or "barber college," placed as nearly as practicable in the center between top and bottom of any such window, and, if desired by the manager-instructor of such school or college, underneath these words, a sign with letters no greater in size, composed of the words "shaving" and/or "hair cutting," giving the price charged; and such school or college shall not at any time keep or maintain upon any of the windows or doors of such school or college, or use in any advertisement, any sign or words "barber shop," "expert barbering," or other similar words, or display any barber pole or barber pole stripes such as has long been used to designate a barber shop, or barber shop services as distinguished from services performed by student barbers in such school or college. Every such school or college, at all times when open for business, shall place and maintain upon the floor within its premises in front of each entrance a standing floor sign composed of the words "student barbers perform all services herein" painted in three-inch red letters upon a white standing floor sign thirty inches high and twenty inches wide, and designed as prescribed by the director. The director shall revoke the license of any school or college which shall violate any of the provisions of this chapter, or which shall fail to impart to each student in such school or college the instructions herein required.

No barber school or college shall be operated unless it is under the control of a barber licensed as a manager-instructor. Each applicant for a manager-instructor's license shall submit an application to the director on

such forms as it may prescribe. The qualifications for such a license, license fees and license renewal fees shall be the same as those prescribed for an instructor's license. The examination for a manager-instructor's license, shall in addition to the requirements for an instructor's license, include business management as related to barber shops and barber schools, state laws and regulations relating to the operation of barber schools and barbering, and such other subjects relating to the operation of barber schools or colleges as the examining committee may prescribe. The name and designation of the licensee as manager-instructor shall appear on each school or college location license issued by the director. A manager-instructor's license shall stand revoked if not used for a period of two years, after which time licensee must be reexamined as for a new license.

NEW SECTION. Sec. 5. There is added to chapter 18.15 RCW a new section to read as follows:

(1) At the time of licensing each school or college shall file a surety bond with the director of licensing, hereinafter referred to as the director, in a form acceptable to the director. The bond may be continuous or renewable at the time of annual renewal of license: **PROVIDED**, That the bond shall cover the full period during which a school or college is licensed unless the surety has been released as provided in subsection (4) of this section.

In the event that any final judgment shall impair the liability of the surety upon the bond so furnished that there shall not be in effect a bond undertaking in the full amount prescribed in this section, the director shall suspend the license of the school or college until the bond liability in the required amount unimpaired by unsatisfied judgment claims shall have been furnished.

(2) The amount of the bond shall be determined by the director. In fixing the amount the director shall adopt rules setting bond amounts on a sliding scale based upon the size of the school or college, and the maximum amount of the bond required may not exceed seventy-five thousand dollars.

The bond shall be executed by the licensed school or college as principal and by a surety company authorized to do business in this state as surety. The bond shall run to the state of Washington, for the benefit and protection of any student or enrollee, or, in the case of a minor, his or her parents or guardian, determined to have suffered loss or damage as a result of an act or practice by such school or college which is a violation of this chapter alleged to have occurred while the bond was in effect or as a result of the school's or college's failure to meet its obligations to a student or enrollee during the term for which tuition has been paid.

(3) In lieu of the surety bond provided for herein, the school or college may furnish, file and deposit with the director, cash or other negotiable security acceptable to the director. If the school or college has filed a cash

deposit, the director shall deposit such funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from such account. The security deposited with the department in lieu of the surety bond shall be returned to the school or college at the expiration of one year after the school's or college's license has expired or been revoked if no legal action has been instituted against the school or college or on said security deposit at the expiration of said one year.

Any person having an unsatisfied final judgment against the licensee based on any claims arising under this section may execute upon the security held by the director by serving a certified copy of the unsatisfied final judgment together with any findings and conclusions by registered or certified mail upon the director within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the director shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the department of the unsatisfied judgment and claim against the deposit, but the director shall have no liability for payment in excess of the amount of the deposit.

(4) A surety on a bond may be released by serving written notice thereof to the director at least thirty-five days prior to the release, but the release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee, or, in the case of a minor, his or her parents or guardian, for loss or damage resulting from any act or practice which is a violation of this chapter or rules adopted under this chapter alleged to have occurred while the bond was in effect, or resulting from the school's or college's failure to meet its obligations to a student or enrollee during the term for which tuition has been paid.

The director shall give the school or college at least thirty days written notice prior to the release of the surety to the effect that its license will be suspended by operation of law until a sufficient surety bond is filed in the same manner and amount as the bond being terminated.

(5) In addition to all other legal remedies, an action may be brought upon the bond or cash deposit or security in lieu thereof by any beneficiary covered thereunder, in the superior court of Thurston county or the county in which the educational services were offered by the school or college: PROVIDED, That the aggregate liability of the surety to all such persons shall in no event exceed the sum of such bond.

An action upon such bond or security shall be commenced by serving and filing of the complaint within one year from the date of the cancellation of the bond or, in the case of a cash deposit or other security deposited in lieu of the surety bond, within one year of the date of expiration or revocation of license: PROVIDED, That no action shall be maintained upon such

bond or such cash deposit or other security for any claim which has been barred by any nonclaim statute or statute of limitations of this state. Two copies of the complaint shall be served by registered or certified mail upon the director at the time the suit is started. Such service shall constitute service on the surety. The director shall transmit one of said copies of the complaint served on him to the surety within forty-eight hours after it shall have been received.

The director shall maintain a record, available for public inspection, of all suits commenced under this chapter upon surety bonds, or the cash or other security deposited in lieu thereof.

Sec. 6. Section 4, chapter 180, Laws of 1951 as last amended by section 4, chapter 3, Laws of 1965 ex. sess. and RCW 18.18.070 are each amended to read as follows:

No person shall be licensed to conduct a school unless it appears to the director that: (1) ~~((That))~~ The school will maintain the course of instruction herein provided; (2) ~~((that))~~ instruction in the school at all times is in charge of and under the supervision of a manager operator; (3) ~~((that))~~ the school will at all times maintain one instructor for each fifteen students or fraction thereof; ~~((and))~~ (4) ~~((that))~~ at no time does a school have less than two instructors on duty; (5) the school provides students and other interested persons with a catalog or brochure containing information describing (a) enrollment qualifications, (b) programs offered, (c) program objectives, (d) length of program, (e) schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, and (f) cancellation and refund policies; all such information under subsections (a) through (f) above shall be provided prospective students prior to enrollment as well as such other material facts concerning the school and the program as are reasonably likely to affect the decision of the student to enroll in the school, together with any other disclosures specified by the director and defined in department rules; (6) adequate records are maintained by the school to document student performance and progress; (7) neither the school nor its agents engage in methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair; (8) the school is financially sound and capable of meeting its legal financial obligations and fulfilling its commitments to students; (9) for any nonaccredited school, the nonaccredited school has established, consistent with guidelines adopted by the director, a fair and equitable cancellation and refund policy that includes provisions for a cooling-off period, and will not make unilateral changes in scheduled times for course instruction unless provision is made for an equitable refund of tuition and fees; and (10) at the time of licensing the school has filed with the director a surety bond in a form acceptable to the director.

For purposes of this section, "nonaccredited school" shall mean a school which is not accredited by an accrediting association recognized by the commission for vocational education pursuant to RCW 28B.05.040(5).

NEW SECTION. Sec. 7. There is added to chapter 18.18 RCW a new section to read as follows:

(1) At the time of licensing each school shall file a surety bond with the director of licensing, hereinafter referred to as the director, in a form acceptable to the department. The bond may be continuous or renewable at the time of annual renewal of license: PROVIDED, That the bond shall cover the full period during which a school is licensed unless the surety has been released as provided in subsection (4) of this section.

In the event that any final judgment shall impair the liability of the surety upon the bond so furnished that there shall not be in effect a bond undertaking in the full amount prescribed in this section, the director shall suspend the license of the school until the bond liability in the required amount unimpaired by unsatisfied judgment claims shall have been furnished.

(2) The amount of the bond shall be determined by the director. In fixing the amount the director shall adopt rules setting bond amounts on a sliding scale based upon the size of the school, and the maximum amount of the bond required may not exceed seventy-five thousand dollars.

The bond shall be executed by the licensed school as principal and by a surety company authorized to do business in this state as surety. The bond shall run to the state of Washington, for the benefit and protection of any student or enrollee, or, in the case of a minor, his or her parents or guardian, determined to have suffered loss or damage as a result of an act or practice by such school which is a violation of this chapter alleged to have occurred while the bond was in effect or as a result of the school's failure to meet its obligations to a student or enrollee during the term for which tuition has been paid.

(3) In lieu of the surety bond provided for herein, the school may furnish, file and deposit with the director, cash or other negotiable security acceptable to the director. If the school has filed a cash deposit, the agency shall deposit such funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from such account. The security deposited with the director in lieu of the surety bond shall be returned to the school at the expiration of one year after the school's license has expired or been revoked if no legal action has been instituted against the school or on said security deposit at the expiration of said one year.

Any person having an unsatisfied final judgment against the licensee based on any claims arising under this section may execute upon the security held by the director by serving a certified copy of the unsatisfied final judgment together with any findings and conclusions by register or certified

mail upon the director within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the director shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the director shall be the order of receipt by the director of the unsatisfied judgment and claim against the deposit, but the director shall have no liability for payment in excess of the amount of the deposit.

(4) A surety on a bond may be released by serving written notice thereof to the director at least thirty-five days prior to the release, but the release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee, or, in the case of a minor, his or her parents or guardian, for loss or damage resulting from any act or practice which is a violation of this chapter or rules adopted under this chapter alleged to have occurred while the bond was in effect, or resulting from the school's failure to meet its obligations to a student or enrollee during the term for which tuition has been paid.

The director shall give the school at least thirty days written notice prior to the release of the surety to the effect that its license will be suspended by operation of law until a sufficient surety bond is filed in the same manner and amount as the bond being terminated.

(5) In addition to all other legal remedies, an action may be brought upon the bond or cash deposit or security in lieu thereof by any beneficiary covered thereunder, in the superior court of Thurston county or the county in which the educational services were offered by the school: PROVIDED, That the aggregate liability of the surety to all such persons shall in no event exceed the sum of such bond.

An action upon such bond or security shall be commenced by serving and filing of the complaint within one year from the date of the cancellation of the bond or, in the case of a cash deposit or other security deposited in lieu of the surety bond, within one year of the date of expiration or revocation of license: PROVIDED, That no action shall be maintained upon such bond or such cash deposit or other security for any claim which has been barred by any nonclaim statute or statute of limitations of this state. Two copies of the complaint shall be served by registered or certified mail upon the director at the time the suit is started. Such service shall constitute service on the surety. The director shall transmit one of said copies of the complaint served on him to the surety within forty-eight hours after it shall have been received.

The director shall maintain a record, available for public inspection, of all suits commenced under this chapter upon surety bonds, or the cash or other security deposited in lieu thereof.

NEW SECTION. Sec. 8. If any provision of this amendatory 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 Senate April 25, 1981.

Passed the House April 16, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 284

[Senate Bill No. 4327]

SOCIAL AND HEALTH DEPARTMENT FEES—OUT-OF-STATE MARRIAGE LICENSES—VACCINE REPOSITORY

AN ACT Relating to social and health services; and adding new sections to chapter 74.04 RCW.

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

NEW SECTION. Section 1. There is added to chapter 74.04 RCW a new section to read as follows:

The department shall prescribe by rule a schedule of fees for providing certificates necessary to meet marriage license requirements of other states. The fees shall be predicated on the costs of conducting premarital blood screening tests and issuing certificates.

NEW SECTION. Sec. 2. There is added to chapter 74.04 RCW a new section to read as follows:

The department shall prescribe by rule a schedule of fees predicated on the cost of providing a repository of emergency vaccines and other biologics.

Passed the Senate March 23, 1981.

Passed the House April 26, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 285

[Senate Bill No. 3334]

STATE BASIC EDUCATION MONEYS—UNFULFILLED REQUIREMENTS

AN ACT Relating to education; and amending section 28A.41.170, chapter 223, Laws of 1969 ex. sess. as last amended by section 6, chapter 250, Laws of 1979 ex. sess. and RCW 28A.41.170.

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

Section 1. Section 28A.41.170, chapter 223, Laws of 1969 ex. sess. as last amended by section 6, chapter 250, Laws of 1979 ex. sess. and RCW 28A.41.170 are each amended to read as follows: