
HOUSE BILL 1398

State of Washington 61st Legislature 2009 Regular Session

By Representatives Green, Campbell, Seaquist, Appleton, and Rolfes

Read first time 01/20/09. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to creating the Washington state acupuncture
2 quality assurance commission; amending RCW 18.06.010, 18.06.020,
3 18.06.045, 18.06.050, 18.06.060, 18.06.070, 18.06.080, 18.06.110,
4 18.06.130, 18.06.140, 18.06.160, 18.06.190, and 18.130.040; and adding
5 a new section to chapter 18.06 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.06 RCW
8 to read as follows:

9 (1) The Washington state acupuncture quality assurance commission
10 is established, consisting of nine members appointed by the governor to
11 four-year terms, and including seven practicing acupuncturists and two
12 public members. No member may serve more than two consecutive full
13 terms. Members of the commission hold office until their successors
14 are appointed. The governor may appoint the initial members of the
15 commission to staggered terms of from one to four years. Thereafter,
16 all members shall be appointed to full four-year terms. The governor
17 may consider persons who are recommended for appointment by
18 acupuncturist associations of this state.

1 (2) Members of the commission must be citizens of the United States
2 and residents of this state. Members must have been licensed
3 acupuncturists for a period of five years before appointment and may
4 not hold licenses in other health care professions other than
5 acupuncture. Public members of the commission may not be a member of
6 any other health care licensing board or commission, have a fiduciary
7 obligation to a facility rendering health services regulated under this
8 chapter, or have a material or financial interest in the rendering of
9 health services under this chapter.

10 (3) The commission shall elect officers each year including, but
11 not limited to, a chair and a vice-chair. Meetings of the commission
12 are open to the public, except that the commission may hold executive
13 sessions to the extent permitted by chapter 42.30 RCW. The secretary
14 shall furnish secretarial, clerical, and other assistance as required
15 by the commission.

16 (4) Each member of the commission shall be compensated in
17 accordance with RCW 43.03.265. Members shall be reimbursed for travel
18 expenses incurred in the actual performance of their duties, as
19 provided in RCW 43.03.050 and 43.03.060.

20 (5)(a) A majority of the commission members appointed and serving
21 constitutes a quorum for the transaction of commission business. The
22 affirmative vote of a majority of a quorum of the commission is
23 required to carry a motion or resolution, to adopt a rule, or to pass
24 a measure.

25 (b) Commission members may participate remotely in a commission
26 meeting by means of a telephone or similar communications equipment
27 when it is otherwise difficult or impossible for the member to attend
28 in person if:

29 (i) The member participating remotely can be identified when
30 speaking;

31 (ii) All participants are able to hear each other at the same time;
32 and

33 (iii) Members of the public attending the meeting are able to hear
34 any member of the board who speaks at the meeting, including the member
35 participating remotely.

36 (c) The commission shall notify the governor when any commission
37 member has missed three consecutive meetings of the full commission.

1 (6) The commission may appoint members of panels of at least three
2 members. A quorum for transaction of any business by a panel is a
3 minimum of three members. A majority vote of a quorum of the panel is
4 required to transact business delegated to it by the commission.

5 (7) Members of the commission are immune from suit in an action,
6 civil or criminal, based upon the commission's disciplinary proceedings
7 or other official acts performed in good faith as members of the
8 commission.

9 (8) The commission may adopt such rules as are consistent with this
10 chapter as may be deemed necessary and proper to carry out the purposes
11 of this chapter.

12 (9) The governor may remove a member of the commission for neglect
13 of duty, misconduct, or malfeasance or misfeasance in office. Whenever
14 the governor is satisfied that a member of the commission has been
15 guilty of neglect of duty, misconduct, or malfeasance or misfeasance in
16 office, the governor shall file with the secretary of state a statement
17 of the causes for and the order of removal from office, and the
18 secretary shall forthwith send a certified copy of the order of removal
19 and statement of causes by certified mail to the last known post office
20 address of the member. If a vacancy occurs on the commission, the
21 governor shall appoint a replacement to fill the remainder of the
22 unexpired term.

23 **Sec. 2.** RCW 18.06.010 and 1995 c 323 s 4 are each amended to read
24 as follows:

25 The following terms in this chapter shall have the meanings set
26 forth in this section unless the context clearly indicates otherwise:

27 (1) "Acupuncture" means a health care service based on an Oriental
28 system of medical theory utilizing Oriental diagnosis and treatment to
29 promote health and treat organic or functional disorders by treating
30 specific acupuncture points or meridians. Acupuncture includes the
31 following techniques:

32 (a) Use of acupuncture needles to stimulate acupuncture points and
33 meridians;

34 (b) Use of electrical, mechanical, or magnetic devices to stimulate
35 acupuncture points and meridians;

36 (c) Moxibustion;

37 (d) Acupressure;

- 1 (e) Cupping;
2 (f) Dermal friction technique;
3 (g) Infra-red;
4 (h) Sonopuncture;
5 (i) Laserpuncture;
6 (j) Point injection therapy (aquapuncture); and
7 (k) Dietary advice based on Oriental medical theory provided in
8 conjunction with techniques under (a) through (j) of this subsection.
9 (2) "Acupuncturist" means a person licensed under this chapter.
10 (3) "Commission" means the Washington state acupuncture quality
11 assurance commission created in section 1 of this act.
12 (4) "Department" means the department of health.
13 ((+4)) (5) "Secretary" means the secretary of health or the
14 secretary's designee.

15 **Sec. 3.** RCW 18.06.020 and 1995 c 323 s 5 are each amended to read
16 as follows:

17 (1) No one may hold themselves out to the public as an
18 acupuncturist or licensed acupuncturist or any derivative thereof which
19 is intended to or is likely to lead the public to believe such a person
20 is an acupuncturist or licensed acupuncturist unless licensed as
21 provided for in this chapter.

22 (2) A person may not practice acupuncture if the person is not
23 licensed under this chapter.

24 (3) No one may use any configuration of letters after their name
25 (including Ac.) which indicates a degree or formal training in
26 acupuncture unless licensed as provided for in this chapter.

27 (4) The ((~~secretary~~)) commission may by rule proscribe or regulate
28 advertising and other forms of patient solicitation which are likely to
29 mislead or deceive the public as to whether someone is licensed under
30 this chapter.

31 **Sec. 4.** RCW 18.06.045 and 1995 c 323 s 6 are each amended to read
32 as follows:

33 Nothing in this chapter shall be construed to prohibit or restrict:

34 (1) The practice by an individual credentialed under the laws of
35 this state and performing services within such individual's authorized
36 scope of practice;

1 (2) The practice by an individual employed by the government of the
2 United States while engaged in the performance of duties prescribed by
3 the laws of the United States;

4 (3) The practice by a person who is a regular student in an
5 educational program approved by the ((secretary)) commission, and whose
6 performance of services is pursuant to a regular course of instruction
7 or assignments from an instructor and under the general supervision of
8 the instructor;

9 (4) The practice of acupuncture by any person credentialed to
10 perform acupuncture in any other jurisdiction where such person is
11 doing so in the course of regular instruction of a school of
12 acupuncture approved by the ((secretary)) commission or in an
13 educational seminar by a professional organization of acupuncture,
14 provided that in the latter case, the practice is supervised directly
15 by a person licensed under this chapter or licensed under any other
16 healing art whose scope of practice includes acupuncture.

17 **Sec. 5.** RCW 18.06.050 and 2004 c 262 s 2 are each amended to read
18 as follows:

19 Any person seeking to be examined shall present to the
20 ((secretary)) commission at least forty-five days before the
21 commencement of the examination:

22 (1) A written application on a form or forms provided by the
23 ((secretary)) commission setting forth under affidavit such information
24 as the ((secretary)) commission may require; and

25 (2) Proof that the candidate has:

26 (a) Successfully completed a course, approved by the ((secretary))
27 commission, of didactic training in basic sciences and acupuncture over
28 a minimum period of two academic years. The training shall include
29 such subjects as anatomy, physiology, microbiology, biochemistry,
30 pathology, hygiene, and a survey of western clinical sciences. The
31 basic science classes must be equivalent to those offered at the
32 collegiate level. However, if the applicant is a licensed chiropractor
33 under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A
34 RCW, the requirements of this subsection relating to basic sciences may
35 be reduced by up to one year depending upon the extent of the
36 candidate's qualifications as determined under rules adopted by the
37 ((secretary)) commission;

1 (b) Successfully completed five hundred hours of clinical training
2 in acupuncture that is approved by the ((~~secretary~~)) commission.

3 **Sec. 6.** RCW 18.06.060 and 1991 c 3 s 8 are each amended to read as
4 follows:

5 The ((~~department~~)) commission shall consider for approval any
6 school, program, apprenticeship, or tutorial which meets the
7 requirements outlined in this chapter and provides the training
8 required under RCW 18.06.050. Clinical and didactic training may be
9 approved as separate programs or as a joint program. The process for
10 approval shall be established by the ((~~secretary~~)) commission by rule.

11 **Sec. 7.** RCW 18.06.070 and 1991 c 3 s 9 are each amended to read as
12 follows:

13 No applicant may be permitted to take an examination under this
14 chapter until the ((~~secretary~~)) commission has approved his or her
15 application and the applicant has paid an examination fee as prescribed
16 under RCW 43.70.250. The examination fee shall accompany the
17 application.

18 **Sec. 8.** RCW 18.06.080 and 1995 c 323 s 7 are each amended to read
19 as follows:

20 (1) The ((~~secretary~~)) commission is hereby authorized and empowered
21 to execute the provisions of this chapter and shall offer examinations
22 in acupuncture at least twice a year at such times and places as the
23 ((~~secretary~~)) commission may select. The examination shall be a
24 written examination and may include a practical examination.

25 (2) The ((~~secretary~~)) commission shall develop or approve a
26 licensure examination in the subjects that the ((~~secretary~~)) commission
27 determines are within the scope of and commensurate with the work
28 performed by licensed acupuncturists and shall include but not
29 necessarily be limited to anatomy, physiology, microbiology,
30 biochemistry, pathology, hygiene, and acupuncture. All application
31 papers shall be deposited with the ((~~secretary~~)) commission and there
32 retained for at least one year, when they may be destroyed.

33 (3) If the examination is successfully passed, the ((~~secretary~~))
34 commission shall confer on such candidate the title of Licensed
35 Acupuncturist.

1 (4) The ((~~secretary~~)) commission may appoint members of the
2 profession to serve in an ad hoc advisory capacity to the ((~~secretary~~))
3 commission in carrying out this chapter. The members will serve for
4 designated times and provide advice on matters specifically identified
5 and requested by the ((~~secretary~~)) commission. The members shall be
6 compensated in accordance with RCW 43.03.220 and reimbursed for travel
7 expenses under RCW 43.03.040 and 43.03.060.

8 (5) The ((~~secretary~~)) commission, ad hoc committee members, or
9 individuals acting in their behalf are immune from suit in a civil
10 action based on any certification or disciplinary proceedings or other
11 official acts performed in the course of their duties.

12 **Sec. 9.** RCW 18.06.110 and 1995 c 323 s 9 are each amended to read
13 as follows:

14 The Uniform Disciplinary Act, chapter 18.130 RCW, governs
15 uncertified practice, the issuance and denial of licenses, and the
16 disciplining of license holders under this chapter. The ((~~secretary~~))
17 commission shall be the disciplining authority under this chapter.

18 **Sec. 10.** RCW 18.06.130 and 2003 c 53 s 121 are each amended to
19 read as follows:

20 (1) The ((~~secretary~~)) commission shall develop a form to be used by
21 an acupuncturist to inform the patient of the acupuncturist's scope of
22 practice and qualifications. All license holders shall bring the form
23 to the attention of the patients in whatever manner the ((~~secretary~~))
24 commission, by rule, provides.

25 (2) A person violating this section is guilty of a misdemeanor.

26 **Sec. 11.** RCW 18.06.140 and 2003 c 53 s 122 are each amended to
27 read as follows:

28 (1) Every licensed acupuncturist shall develop a written plan for
29 consultation, emergency transfer, and referral to other health care
30 practitioners operating within the scope of their authorized practices.
31 The written plan shall be submitted with the initial application for
32 licensure as well as annually thereafter with the license renewal fee
33 to the department. The department may withhold licensure or renewal of
34 licensure if the plan fails to meet the standards contained in rules
35 adopted by the ((~~secretary~~)) commission.

1 (2) When the acupuncturist sees patients with potentially serious
2 disorders such as cardiac conditions, acute abdominal symptoms, and
3 such other conditions, the acupuncturist shall immediately request a
4 consultation or recent written diagnosis from a physician licensed
5 under chapter 18.71 or 18.57 RCW. In the event that the patient with
6 the disorder refuses to authorize such consultation or provide a recent
7 diagnosis from such physician, acupuncture treatment shall not be
8 continued.

9 (3) A person violating this section is guilty of a misdemeanor.

10 **Sec. 12.** RCW 18.06.160 and 1991 c 3 s 15 are each amended to read
11 as follows:

12 The ((~~secretary~~)) commission shall adopt rules in the manner
13 provided by chapter 34.05 RCW as are necessary to carry out the
14 purposes of this chapter.

15 **Sec. 13.** RCW 18.06.190 and 1995 c 323 s 13 are each amended to
16 read as follows:

17 The ((~~secretary~~)) commission may license a person without
18 examination if such person is credentialed as an acupuncturist in
19 another jurisdiction if, in the ((~~secretary's~~)) commission's judgment,
20 the requirements of that jurisdiction are equivalent to or greater than
21 those of Washington state.

22 **Sec. 14.** RCW 18.130.040 and 2009 c 2 s 16 (Initiative Measure No.
23 1029) are each amended to read as follows:

24 (1) This chapter applies only to the secretary and the boards and
25 commissions having jurisdiction in relation to the professions licensed
26 under the chapters specified in this section. This chapter does not
27 apply to any business or profession not licensed under the chapters
28 specified in this section.

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

31 (i) Dispensing opticians licensed and designated apprentices under
32 chapter 18.34 RCW;

33 (ii) Naturopaths licensed under chapter 18.36A RCW;

34 (iii) Midwives licensed under chapter 18.50 RCW;

35 (iv) Ocularists licensed under chapter 18.55 RCW;

1 (v) Massage operators and businesses licensed under chapter 18.108
2 RCW;

3 (vi) Dental hygienists licensed under chapter 18.29 RCW;

4 (vii) (~~(Acupuncturists licensed under chapter 18.06 RCW;~~
5 ~~(viii))~~) Radiologic technologists certified and X-ray technicians
6 registered under chapter 18.84 RCW;

7 (~~(ix))~~) (viii) Respiratory care practitioners licensed under
8 chapter 18.89 RCW;

9 (~~(x))~~) (ix) Persons registered under chapter 18.19 RCW;

10 (~~(xi))~~) (x) Persons licensed as mental health counselors, marriage
11 and family therapists, and social workers under chapter 18.225 RCW;

12 (~~(xii))~~) (xi) Persons registered as nursing pool operators under
13 chapter 18.52C RCW;

14 (~~(xiii))~~) (xii) Nursing assistants registered or certified under
15 chapter 18.88A RCW;

16 (~~(xiv))~~) (xiii) Health care assistants certified under chapter
17 18.135 RCW;

18 (~~(xv))~~) (xiv) Dietitians and nutritionists certified under chapter
19 18.138 RCW;

20 (~~(xvi))~~) (xv) Chemical dependency professionals certified under
21 chapter 18.205 RCW;

22 (~~(xvii))~~) (xvi) Sex offender treatment providers and certified
23 affiliate sex offender treatment providers certified under chapter
24 18.155 RCW;

25 (~~(xviii))~~) (xvii) Persons licensed and certified under chapter
26 18.73 RCW or RCW 18.71.205;

27 (~~(xix))~~) (xviii) Denturists licensed under chapter 18.30 RCW;

28 (~~(xx))~~) (xix) Orthotists and prosthetists licensed under chapter
29 18.200 RCW;

30 (~~(xxi))~~) (xx) Surgical technologists registered under chapter
31 18.215 RCW;

32 (~~(xxii))~~) (xxi) Recreational therapists;

33 (~~(xxiii))~~) (xxii) Animal massage practitioners certified under
34 chapter 18.240 RCW;

35 (~~(xxiv))~~) (xxiii) Athletic trainers licensed under chapter 18.250
36 RCW; and

37 (~~(xxv))~~) (xxiv) Home care aides certified under chapter 18.88B
38 RCW.

1 (b) The boards and commissions having authority under this chapter
2 are as follows:

3 (i) The podiatric medical board as established in chapter 18.22
4 RCW;

5 (ii) The chiropractic quality assurance commission as established
6 in chapter 18.25 RCW;

7 (iii) The dental quality assurance commission as established in
8 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
9 licenses and registrations issued under chapter 18.260 RCW;

10 (iv) The board of hearing and speech as established in chapter
11 18.35 RCW;

12 (v) The board of examiners for nursing home administrators as
13 established in chapter 18.52 RCW;

14 (vi) The optometry board as established in chapter 18.54 RCW
15 governing licenses issued under chapter 18.53 RCW;

16 (vii) The board of osteopathic medicine and surgery as established
17 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
18 18.57A RCW;

19 (viii) The board of pharmacy as established in chapter 18.64 RCW
20 governing licenses issued under chapters 18.64 and 18.64A RCW;

21 (ix) The medical quality assurance commission as established in
22 chapter 18.71 RCW governing licenses and registrations issued under
23 chapters 18.71 and 18.71A RCW;

24 (x) The board of physical therapy as established in chapter 18.74
25 RCW;

26 (xi) The board of occupational therapy practice as established in
27 chapter 18.59 RCW;

28 (xii) The nursing care quality assurance commission as established
29 in chapter 18.79 RCW governing licenses and registrations issued under
30 that chapter;

31 (xiii) The examining board of psychology and its disciplinary
32 committee as established in chapter 18.83 RCW; (~~and~~)

33 (xiv) The veterinary board of governors as established in chapter
34 18.92 RCW; and

35 (xv) The Washington state acupuncture quality assurance commission.

36 (3) In addition to the authority to discipline license holders, the
37 disciplining authority has the authority to grant or deny licenses.

1 The disciplining authority may also grant a license subject to
2 conditions.

3 (4) All disciplining authorities shall adopt procedures to ensure
4 substantially consistent application of this chapter, the Uniform
5 Disciplinary Act, among the disciplining authorities listed in
6 subsection (2) of this section.

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