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SENATE BILL 6237

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State of Washington                      62nd Legislature                      2012 Regular Session

By Senators Keiser, Conway, Kline, Frockt, and Becker

Read first time 01/16/12. Referred to Committee on Health & Long-Term Care.

1            AN ACT Relating to creating a career pathway for medical  
2 assistants; amending RCW 18.135.010, 18.135.030, 18.135.040,  
3 18.135.060, 18.135.070, 18.135.090, 18.135.110, 18.135.120, 18.120.020,  
4 18.130.040, and 46.61.506; reenacting and amending RCW 18.135.020;  
5 adding new sections to chapter 18.135 RCW; creating a new section; and  
6 repealing RCW 18.135.025, 18.135.050, and 18.135.055.

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

8            NEW SECTION.        **Sec. 1.**        The legislature finds that medical  
9 assistants are health care professionals who commonly work in  
10 ambulatory settings, such as physicians' offices, clinics, and group  
11 practices. Medical assistants are trained to perform administrative  
12 and clinical procedures as part of a health care team. Currently,  
13 medical assistants are not credentialed, although there is a nationally  
14 recognized certifying organization.

15            The legislature further finds that health care assistants are  
16 currently credentialed in this state. Health care assistants are  
17 certified to perform very specific tasks such as blood draws,  
18 injections, limited medication administration, skin tests, and  
19 hemodialysis. The existence of these two professions, one with a

1 commonly used title but no credential, the other with a credential but  
2 seldom used title, causes significant confusion for health care  
3 professionals.

4 The legislature intends to change the designation of health care  
5 assistant to medical assistant. Rather than have multiple disparate  
6 categories for medical assistant certification, the legislature intends  
7 to provide minimum requirements for entry-level medical assistants and  
8 require the department of health to establish a career ladder so that  
9 medical assistants can, through experience and education, increase  
10 their skills and the procedures in which they are permitted to assist.

11 **Sec. 2.** RCW 18.135.010 and 2009 c 43 s 2 are each amended to read  
12 as follows:

13 It is in this state's public interest that limited authority to:  
14 (1) Administer skin tests and subcutaneous, intradermal, intramuscular,  
15 and intravenous injections; (2) perform minor invasive procedures to  
16 withdraw blood; (3) administer vaccines in accordance with RCW  
17 18.135.120; and (4) administer certain drugs, in accordance with RCW  
18 18.135.130 be granted to (~~health-care~~) medical assistants who are not  
19 so authorized under existing licensing statutes, subject to such  
20 regulations as will ensure the protection of the health and safety of  
21 the patient.

22 **Sec. 3.** RCW 18.135.020 and 2009 c 43 s 4 are each reenacted and  
23 amended to read as follows:

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) "Delegation" means direct authorization granted by a licensed  
27 health care practitioner to a (~~health-care~~) medical assistant to  
28 perform the functions authorized in this chapter which fall within the  
29 scope of practice of the delegator and which are not within the scope  
30 of practice of the delegatee.

31 (~~("Health care assistant" means an unlicensed person who  
32 assists a licensed health care practitioner in providing health care to  
33 patients pursuant to this chapter. However, persons trained by a  
34 federally approved end stage renal disease facility who perform end-  
35 stage renal dialysis in the home setting are exempt from certification  
36 under this chapter.)~~) "Department" means the department of health.

1 (3) "Health care facility" means any hospital, hospice care center,  
2 licensed or certified health care facility, health maintenance  
3 organization regulated under chapter 48.46 RCW, federally qualified  
4 health maintenance organization, renal dialysis center or facility  
5 federally approved under 42 C.F.R. 405.2100, blood bank federally  
6 licensed under 21 C.F.R. 607, or clinical laboratory certified under 20  
7 C.F.R. 405.1301-16.

8 (4) "Health care practitioner" means:

9 (a) A physician licensed under chapter 18.71 RCW;

10 (b) An osteopathic physician or surgeon licensed under chapter  
11 18.57 RCW; or

12 (c) Acting within the scope of their respective licensure, a  
13 podiatric physician and surgeon licensed under chapter 18.22 RCW, a  
14 registered nurse or advanced registered nurse practitioner licensed  
15 under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A  
16 RCW, a physician assistant licensed under chapter 18.71A RCW, or an  
17 osteopathic physician assistant licensed under chapter 18.57A RCW.

18 (5) "Medical assistant" means a person certified under this chapter  
19 to assist a licensed health care practitioner in providing health care  
20 to patients. However, persons trained by a federally approved end-  
21 stage renal disease facility who perform end-stage renal dialysis in  
22 the home setting are exempt from certification under this chapter.

23 (6) "Secretary" means the secretary of health.

24 ((+6)) (7) "Supervision" means supervision of procedures permitted  
25 pursuant to this chapter by a health care practitioner who is  
26 physically present and is immediately available in the facility during  
27 the administration of injections or vaccines, as defined in this  
28 chapter, or certain drugs as provided in RCW 18.135.130, but need not  
29 be present during procedures to withdraw blood.

30 NEW SECTION. Sec. 4. A new section is added to chapter 18.135 RCW  
31 to read as follows:

32 (1) Beginning July 1, 2014, no persons may represent themselves as  
33 medical assistants unless certified as provided for in this chapter.  
34 Once certified, medical assistants may only practice in the category of  
35 medical assistant for which they are certified. However, they may,  
36 under supervision of a health care professional, receive training for  
37 procedures in another category of medical assistant.

1 (2) An applicant applying for certification as a medical assistant  
2 must file a written application on a form or forms provided by the  
3 secretary setting forth under affidavit such information as the  
4 secretary may require, and proof that the candidate has met  
5 qualifications set forth in this chapter.

6 (3) Any person seeking certification as a medical assistant must  
7 meet the following qualifications:

8 (a) Be eighteen years of age or older;

9 (b) Have satisfactorily completed a medical assistant program  
10 approved by the secretary;

11 (c) Have satisfactorily completed a medical assistant examination  
12 approved by the secretary; and

13 (d) Demonstrate evidence of completing the education and training  
14 requirements for the category of medical assistant for which the person  
15 is seeking certification.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.135 RCW  
17 to read as follows:

18 (1) The secretary may certify a person as a medical assistant  
19 without examination if the person is licensed or certified as a medical  
20 assistant in another jurisdiction and if, in the secretary's judgment,  
21 the requirements of that jurisdiction are equivalent or greater than  
22 those of Washington state.

23 (2) Before July 1, 2014, the secretary may certify as a medical  
24 assistant without examination if the person is practicing as a  
25 certified health care assistant and is in good standing. The secretary  
26 must certify the person for the category of medical assistant that is  
27 appropriate for the person's education and experience.

28 **Sec. 6.** RCW 18.135.030 and 1999 c 151 s 201 are each amended to  
29 read as follows:

30 (1) The secretary or the secretary's designee may appoint members  
31 of the (~~health-care~~) medical assistant profession and other health  
32 care practitioners, as defined in RCW 18.135.020(~~(+3)~~), to serve in an  
33 ad hoc capacity to assist in carrying out the provisions of this  
34 chapter. The members shall provide advice on matters specifically  
35 identified and requested by the secretary. The members shall be  
36 reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

1 (2) In addition to any other authority provided by law, the  
2 secretary shall:

3 (a) Adopt rules necessary to  
4 (a)) administer, implement, and enforce this chapter, including  
5 rules providing for the transition of health care assistants to medical  
6 assistants and ensuring that a health care assistant practicing before  
7 July 1, 2014, will be certified in the appropriate medical assistant  
8 category for that person's education and experience;

9 (b) Establish ~~((the minimum requirements necessary for a health~~  
10 ~~care facility or health care practitioner to certify a health care~~  
11 ~~assistant capable of performing the functions authorized in this~~  
12 ~~chapter; and~~

13 (c) Establish)) a career ladder permitting upward career  
14 advancement for medical assistants. The career ladder must consist of  
15 categories of medical assistants with minimum requirements for each and  
16 every category of ((health care)) medical assistant, including minimum  
17 requirements for the entry-level category, education and experience  
18 requirements that are needed for medical assistants to advance to  
19 another category, on-the-job instruction and training, and the  
20 procedures medical assistants are able to assist with during training  
21 to assist them in advancing up the ladder;

22 (c) Establish forms necessary to administer this chapter, including  
23 forms medical assistants may use to document their education and  
24 experience;

25 (d) Issue a certificate to an applicant who has met the  
26 requirements for certification and deny a certificate to an applicant  
27 who does not meet the minimum qualifications;

28 (e) Hire clerical, administrative, and investigative staff as  
29 needed to implement this chapter and hire individuals, including those  
30 certified under this chapter, to serve as consultants as necessary to  
31 implement and administer this chapter;

32 (f) Maintain the official department record of all applicants and  
33 certificate holders;

34 (g) Conduct a hearing, under chapter 34.05 RCW, on an appeal of a  
35 denial of certification based on the applicant's failure to meet the  
36 minimum qualification for certification;

37 (h) Investigate alleged violations of this chapter and consumer

1 complaints involving the practice of persons representing themselves as  
2 medical assistants;

3 (i) Issue subpoenas, statements of charges, statements of intent to  
4 deny certifications, and orders and delegate in writing to a designee  
5 the authority to issue subpoenas, statements of charges, and statement  
6 on intent to deny certifications;

7 (j) Conduct disciplinary proceedings, impose sanctions, and assess  
8 finances for violations of this chapter or any rules adopted under it in  
9 accordance with chapter 34.05 RCW;

10 (k) Set all certification, renewal, and late renewal fees;

11 (l) Set certification expiration dates and renewal periods for all  
12 certifications under this chapter; and

13 (m) Set minimum continuing education requirements.

14 ~~((3) The rules shall be adopted after fair consideration of input~~  
15 ~~from representatives of each category. These requirements shall ensure~~  
16 ~~that the public health and welfare are protected and shall include, but~~  
17 ~~not be limited to, the following factors:~~

18 ~~(a) The education and occupational qualifications for the health~~  
19 ~~care assistant category;~~

20 ~~(b) The work experience for the health care assistant category;~~

21 ~~(c) The instruction and training provided for the health care~~  
22 ~~assistant category; and~~

23 ~~(d) The types of drugs or diagnostic agents which may be~~  
24 ~~administered by injection by health care assistants working in a~~  
25 ~~hospital or nursing home. The rules established under this subsection~~  
26 ~~shall not prohibit health care assistants working in a health care~~  
27 ~~facility other than a nursing home or hospital from performing the~~  
28 ~~functions authorized under this chapter.))~~

29 **Sec. 7.** RCW 18.135.040 and 2006 c 242 s 3 are each amended to read  
30 as follows:

31 A certification issued to a ~~((health care))~~ medical assistant  
32 pursuant to this chapter shall be authority to perform only the  
33 functions authorized ~~((in RCW 18.135.010))~~ for the category in which  
34 the medical assistant has been certified and subject to proper  
35 delegation and supervision in ~~((the))~~ a health care facility ~~((making~~  
36 ~~the certification))~~ or under the supervision of ~~((the certifying))~~ a  
37 health care practitioner ~~((in other health care facilities or in his or~~

1 ~~her office or in the residences of research study participants in~~  
2 ~~accordance with RCW 18.135.110. No certification made by one health~~  
3 ~~care facility or health care practitioner is transferrable to another~~  
4 ~~health care facility or health care practitioner)). Medical assistants~~  
5 ~~may be trained in procedures in a category in which the medical~~  
6 ~~assistant is not certified under the supervision of a health care~~  
7 ~~professional.~~

8 **Sec. 8.** RCW 18.135.060 and 2001 c 22 s 3 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (2) of this section:

11 (a) Any (~~health care~~) medical assistant certified pursuant to  
12 this chapter shall perform the functions authorized in this chapter  
13 only by delegation of authority from (~~the~~) a health care practitioner  
14 and under the supervision of a health care practitioner acting within  
15 the scope of his or her license. In the case of subcutaneous,  
16 intradermal and intramuscular and intravenous injections, a (~~health~~  
17 ~~care~~) medical assistant may perform such functions only under the  
18 supervision of a health care practitioner having authority, within the  
19 scope of his or her license, to order such procedures.

20 (b) The health care practitioner who ordered the procedure or a  
21 health care practitioner who could order the procedure under his or her  
22 license shall be physically present in the immediate area of a hospital  
23 or nursing home where the injection is administered. Sensitivity  
24 agents being administered intradermally or by the scratch method are  
25 excluded from this requirement.

26 (2) A (~~health care~~) medical assistant trained by a federally  
27 approved end-stage renal disease facility may perform venipuncture for  
28 blood withdrawal, administration of oxygen as necessary by cannula or  
29 mask, venipuncture for placement of fistula needles, connect to  
30 vascular catheter for hemodialysis, intravenous administration of  
31 heparin and sodium chloride solutions as an integral part of dialysis  
32 treatment, and intradermal, subcutaneous, or topical administration of  
33 local anesthetics in conjunction with placement of fistula needles, and  
34 intraperitoneal administration of sterile electrolyte solutions and  
35 heparin for peritoneal dialysis: (a) In the center or health care  
36 facility if a registered nurse licensed under chapter 18.79 RCW is

1 physically present and immediately available in such center or health  
2 care facility; or (b) in the patient's home if a physician and a  
3 registered nurse are available for consultation during the dialysis.

4 **Sec. 9.** RCW 18.135.070 and 1993 c 367 s 11 are each amended to  
5 read as follows:

6 The licensing authority of health care facilities or the  
7 disciplining authority of the delegating or supervising health care  
8 practitioner shall investigate all complaints or allegations of  
9 violations of proper certification of a ((health-care)) medical  
10 assistant or violations of delegation of authority or supervision. A  
11 substantiated violation shall constitute sufficient cause for  
12 disciplinary action by the licensing authority of a health care  
13 facility or the disciplining authority of the health care practitioner.

14 **Sec. 10.** RCW 18.135.090 and 1984 c 281 s 9 are each amended to  
15 read as follows:

16 The performance of the functions authorized in this chapter by a  
17 ((health-care)) medical assistant pursuant to this chapter does not  
18 constitute unlicensed practice as a health care practitioner.

19 **Sec. 11.** RCW 18.135.110 and 2006 c 242 s 2 are each amended to  
20 read as follows:

21 This chapter does not prohibit or restrict the performance of  
22 blood-drawing procedures by ((health-care)) medical assistants in the  
23 residences of research study participants when such procedures have  
24 been authorized by the institutional review board of a comprehensive  
25 cancer center or nonprofit degree-granting institution of higher  
26 education and are conducted under the general supervision of a  
27 physician.

28 **Sec. 12.** RCW 18.135.120 and 2008 c 58 s 4 are each amended to read  
29 as follows:

30 The administration of vaccines by a ((health-care)) medical  
31 assistant is restricted to vaccines that are administered by injection,  
32 orally, or topically, including nasal administration, and that are  
33 licensed by the United States food and drug administration.

1           **Sec. 13.** RCW 18.120.020 and 2010 c 286 s 14 are each amended to  
2 read as follows:

3           The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5           (1) "Applicant group" includes any health professional group or  
6 organization, any individual, or any other interested party which  
7 proposes that any health professional group not presently regulated be  
8 regulated or which proposes to substantially increase the scope of  
9 practice of the profession.

10           (2) "Certificate" and "certification" mean a voluntary process by  
11 which a statutory regulatory entity grants recognition to an individual  
12 who (a) has met certain prerequisite qualifications specified by that  
13 regulatory entity, and (b) may assume or use "certified" in the title  
14 or designation to perform prescribed health professional tasks.

15           (3) "Grandfather clause" means a provision in a regulatory statute  
16 applicable to practitioners actively engaged in the regulated health  
17 profession prior to the effective date of the regulatory statute which  
18 exempts the practitioners from meeting the prerequisite qualifications  
19 set forth in the regulatory statute to perform prescribed occupational  
20 tasks.

21           (4) "Health professions" means and includes the following health  
22 and health-related licensed or regulated professions and occupations:  
23 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic  
24 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;  
25 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;  
26 dispensing opticians under chapter 18.34 RCW; hearing instruments under  
27 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and  
28 funeral directing under chapter 18.39 RCW; midwifery under chapter  
29 18.50 RCW; nursing home administration under chapter 18.52 RCW;  
30 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter  
31 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and  
32 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine  
33 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter  
34 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses  
35 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;  
36 registered nurses under chapter 18.79 RCW; occupational therapists  
37 licensed under chapter 18.59 RCW; respiratory care practitioners  
38 licensed under chapter 18.89 RCW; veterinarians and veterinary

1 technicians under chapter 18.92 RCW; (~~health care~~) medical assistants  
2 under chapter 18.135 RCW; massage practitioners under chapter 18.108  
3 RCW; East Asian medicine practitioners licensed under chapter 18.06  
4 RCW; persons registered under chapter 18.19 RCW; persons licensed as  
5 mental health counselors, marriage and family therapists, and social  
6 workers under chapter 18.225 RCW; dietitians and nutritionists  
7 certified by chapter 18.138 RCW; radiologic technicians under chapter  
8 18.84 RCW; and nursing assistants registered or certified under chapter  
9 18.88A RCW.

10 (5) "Inspection" means the periodic examination of practitioners by  
11 a state agency in order to ascertain whether the practitioners'  
12 occupation is being carried out in a fashion consistent with the public  
13 health, safety, and welfare.

14 (6) "Legislative committees of reference" means the standing  
15 legislative committees designated by the respective rules committees of  
16 the senate and house of representatives to consider proposed  
17 legislation to regulate health professions not previously regulated.

18 (7) "License," "licensing," and "licensure" mean permission to  
19 engage in a health profession which would otherwise be unlawful in the  
20 state in the absence of the permission. A license is granted to those  
21 individuals who meet prerequisite qualifications to perform prescribed  
22 health professional tasks and for the use of a particular title.

23 (8) "Professional license" means an individual, nontransferable  
24 authorization to carry on a health activity based on qualifications  
25 which include: (a) Graduation from an accredited or approved program,  
26 and (b) acceptable performance on a qualifying examination or series of  
27 examinations.

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

31 (10) "Public member" means an individual who is not, and never was,  
32 a member of the health profession being regulated or the spouse of a  
33 member, or an individual who does not have and never has had a material  
34 financial interest in either the rendering of the health professional  
35 service being regulated or an activity directly related to the  
36 profession being regulated.

37 (11) "Registration" means the formal notification which, prior to  
38 rendering services, a practitioner shall submit to a state agency

1 setting forth the name and address of the practitioner; the location,  
2 nature and operation of the health activity to be practiced; and, if  
3 required by the regulatory entity, a description of the service to be  
4 provided.

5 (12) "Regulatory entity" means any board, commission, agency,  
6 division, or other unit or subunit of state government which regulates  
7 one or more professions, occupations, industries, businesses, or other  
8 endeavors in this state.

9 (13) "State agency" includes every state office, department, board,  
10 commission, regulatory entity, and agency of the state, and, where  
11 provided by law, programs and activities involving less than the full  
12 responsibility of a state agency.

13 **Sec. 14.** RCW 18.130.040 and 2011 c 41 s 11 are each amended to  
14 read as follows:

15 (1) This chapter applies only to the secretary and the boards and  
16 commissions having jurisdiction in relation to the professions licensed  
17 under the chapters specified in this section. This chapter does not  
18 apply to any business or profession not licensed under the chapters  
19 specified in this section.

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

22 (i) Dispensing opticians licensed and designated apprentices under  
23 chapter 18.34 RCW;

24 (ii) Midwives licensed under chapter 18.50 RCW;

25 (iii) Ocularists licensed under chapter 18.55 RCW;

26 (iv) Massage operators and businesses licensed under chapter 18.108  
27 RCW;

28 (v) Dental hygienists licensed under chapter 18.29 RCW;

29 (vi) East Asian medicine practitioners licensed under chapter 18.06  
30 RCW;

31 (vii) Radiologic technologists certified and X-ray technicians  
32 registered under chapter 18.84 RCW;

33 (viii) Respiratory care practitioners licensed under chapter 18.89  
34 RCW;

35 (ix) Hypnotherapists and agency affiliated counselors registered  
36 and advisors and counselors certified under chapter 18.19 RCW;

1 (x) Persons licensed as mental health counselors, mental health  
2 counselor associates, marriage and family therapists, marriage and  
3 family therapist associates, social workers, social work associates--  
4 advanced, and social work associates--independent clinical under  
5 chapter 18.225 RCW;

6 (xi) Persons registered as nursing pool operators under chapter  
7 18.52C RCW;

8 (xii) Nursing assistants registered or certified under chapter  
9 18.88A RCW;

10 (xiii) (~~Health-care~~) Medical assistants certified under chapter  
11 18.135 RCW;

12 (xiv) Dietitians and nutritionists certified under chapter 18.138  
13 RCW;

14 (xv) Chemical dependency professionals and chemical dependency  
15 professional trainees certified under chapter 18.205 RCW;

16 (xvi) Sex offender treatment providers and certified affiliate sex  
17 offender treatment providers certified under chapter 18.155 RCW;

18 (xvii) Persons licensed and certified under chapter 18.73 RCW or  
19 RCW 18.71.205;

20 (xviii) Denturists licensed under chapter 18.30 RCW;

21 (xix) Orthotists and prosthetists licensed under chapter 18.200  
22 RCW;

23 (xx) Surgical technologists registered under chapter 18.215 RCW;

24 (xxi) Recreational therapists (~~(under chapter 18.230 RCW)~~) under  
25 chapter 18.230 RCW;

26 (xxii) Animal massage practitioners certified under chapter 18.240  
27 RCW;

28 (xxiii) Athletic trainers licensed under chapter 18.250 RCW;

29 (xxiv) Home care aides certified under chapter 18.88B RCW; and

30 (xxv) Genetic counselors licensed under chapter 18.290 RCW.

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

33 (i) The podiatric medical board as established in chapter 18.22  
34 RCW;

35 (ii) The chiropractic quality assurance commission as established  
36 in chapter 18.25 RCW;

37 (iii) The dental quality assurance commission as established in

1 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and  
2 licenses and registrations issued under chapter 18.260 RCW;

3 (iv) The board of hearing and speech as established in chapter  
4 18.35 RCW;

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

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

9 (vii) The board of osteopathic medicine and surgery as established  
10 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
11 18.57A RCW;

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

14 (ix) The medical quality assurance commission as established in  
15 chapter 18.71 RCW governing licenses and registrations issued under  
16 chapters 18.71 and 18.71A RCW;

17 (x) The board of physical therapy as established in chapter 18.74  
18 RCW;

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

21 (xii) The nursing care quality assurance commission as established  
22 in chapter 18.79 RCW governing licenses and registrations issued under  
23 that chapter;

24 (xiii) The examining board of psychology and its disciplinary  
25 committee as established in chapter 18.83 RCW;

26 (xiv) The veterinary board of governors as established in chapter  
27 18.92 RCW; and

28 (xv) The board of naturopathy established in chapter 18.36A RCW.

29 (3) In addition to the authority to discipline license holders, the  
30 disciplining authority has the authority to grant or deny licenses.  
31 The disciplining authority may also grant a license subject to  
32 conditions.

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

1           **Sec. 15.** RCW 46.61.506 and 2010 c 53 s 1 are each amended to read  
2 as follows:

3           (1) Upon the trial of any civil or criminal action or proceeding  
4 arising out of acts alleged to have been committed by any person while  
5 driving or in actual physical control of a vehicle while under the  
6 influence of intoxicating liquor or any drug, if the person's alcohol  
7 concentration is less than 0.08, it is evidence that may be considered  
8 with other competent evidence in determining whether the person was  
9 under the influence of intoxicating liquor or any drug.

10           (2) The breath analysis shall be based upon grams of alcohol per  
11 two hundred ten liters of breath. The foregoing provisions of this  
12 section shall not be construed as limiting the introduction of any  
13 other competent evidence bearing upon the question whether the person  
14 was under the influence of intoxicating liquor or any drug.

15           (3) Analysis of the person's blood or breath to be considered valid  
16 under the provisions of this section or RCW 46.61.502 or 46.61.504  
17 shall have been performed according to methods approved by the state  
18 toxicologist and by an individual possessing a valid permit issued by  
19 the state toxicologist for this purpose. The state toxicologist is  
20 directed to approve satisfactory techniques or methods, to supervise  
21 the examination of individuals to ascertain their qualifications and  
22 competence to conduct such analyses, and to issue permits which shall  
23 be subject to termination or revocation at the discretion of the state  
24 toxicologist.

25           (4)(a) A breath test performed by any instrument approved by the  
26 state toxicologist shall be admissible at trial or in an administrative  
27 proceeding if the prosecution or department produces prima facie  
28 evidence of the following:

29           (i) The person who performed the test was authorized to perform  
30 such test by the state toxicologist;

31           (ii) The person being tested did not vomit or have anything to eat,  
32 drink, or smoke for at least fifteen minutes prior to administration of  
33 the test;

34           (iii) The person being tested did not have any foreign substances,  
35 not to include dental work, fixed or removable, in his or her mouth at  
36 the beginning of the fifteen-minute observation period;

37           (iv) Prior to the start of the test, the temperature of any liquid

1 simulator solution utilized as an external standard, as measured by a  
2 thermometer approved of by the state toxicologist was thirty-four  
3 degrees centigrade plus or minus 0.3 degrees centigrade;

4 (v) The internal standard test resulted in the message "verified";

5 (vi) The two breath samples agree to within plus or minus ten  
6 percent of their mean to be determined by the method approved by the  
7 state toxicologist;

8 (vii) The result of the test of the liquid simulator solution  
9 external standard or dry gas external standard result did lie between  
10 .072 to .088 inclusive; and

11 (viii) All blank tests gave results of .000.

12 (b) For purposes of this section, "prima facie evidence" is  
13 evidence of sufficient circumstances that would support a logical and  
14 reasonable inference of the facts sought to be proved. In assessing  
15 whether there is sufficient evidence of the foundational facts, the  
16 court or administrative tribunal is to assume the truth of the  
17 prosecution's or department's evidence and all reasonable inferences  
18 from it in a light most favorable to the prosecution or department.

19 (c) Nothing in this section shall be deemed to prevent the subject  
20 of the test from challenging the reliability or accuracy of the test,  
21 the reliability or functioning of the instrument, or any maintenance  
22 procedures. Such challenges, however, shall not preclude the  
23 admissibility of the test once the prosecution or department has made  
24 a prima facie showing of the requirements contained in (a) of this  
25 subsection. Instead, such challenges may be considered by the trier of  
26 fact in determining what weight to give to the test result.

27 (5) When a blood test is administered under the provisions of RCW  
28 46.20.308, the withdrawal of blood for the purpose of determining its  
29 alcoholic or drug content may be performed only by a physician, a  
30 registered nurse, a licensed practical nurse, a nursing assistant as  
31 defined in chapter 18.88A RCW, a physician assistant as defined in  
32 chapter 18.71A RCW, a first responder as defined in chapter 18.73 RCW,  
33 an emergency medical technician as defined in chapter 18.73 RCW, a  
34 (~~health-care~~) medical assistant as defined in chapter 18.135 RCW, or  
35 any technician trained in withdrawing blood. This limitation shall not  
36 apply to the taking of breath specimens.

37 (6) The person tested may have a physician, or a qualified  
38 technician, chemist, registered nurse, or other qualified person of his

1 or her own choosing administer one or more tests in addition to any  
2 administered at the direction of a law enforcement officer. The test  
3 will be admissible if the person establishes the general acceptability  
4 of the testing technique or method. The failure or inability to obtain  
5 an additional test by a person shall not preclude the admission of  
6 evidence relating to the test or tests taken at the direction of a law  
7 enforcement officer.

8 (7) Upon the request of the person who shall submit to a test or  
9 tests at the request of a law enforcement officer, full information  
10 concerning the test or tests shall be made available to him or her or  
11 his or her attorney.

12 NEW SECTION. **Sec. 16.** The following acts or parts of acts are  
13 each repealed:

14 (1) RCW 18.135.025 (Rules--Legislative intent) and 1986 c 216 s 1;

15 (2) RCW 18.135.050 (Certification by health care facility or  
16 practitioner--Roster--Recertification) and 1996 c 191 s 82, 1991 c 3 s  
17 274, & 1984 c 281 s 5; and

18 (3) RCW 18.135.055 (Registering an initial or continuing  
19 certification--Fees) and 1996 c 191 s 83, 1991 c 3 s 275, & 1985 c 117  
20 s 1.

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