
SENATE BILL 5470

State of Washington

68th Legislature

2023 Regular Session

By Senators Trudeau and Short

1 AN ACT Relating to creating a new health profession for lactation
2 consultants; amending RCW 18.120.020 and 18.130.040; adding a new
3 chapter to Title 18 RCW; creating a new section; and providing
4 effective dates.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Department" means the department of health.

10 (2) "Lactation care and services" means the clinical application
11 of scientific principles and a multidisciplinary body of evidence for
12 evaluation, problem identification, treatment, education, and
13 consultation to provide lactation care and services to childbearing
14 families.

15 (3) "Lactation consultant" means a person certified under this
16 chapter to provide lactation care and services.

17 (4) "Secretary" means the secretary of health.

18 NEW SECTION. **Sec. 2.** (1) A lactation consultant may voluntarily
19 apply for certification from the department under this section.

1 (2) The department shall issue a certification to any applicant
2 who has met the following requirements:

3 (a) (i) Board certification by a secretary-approved national or
4 international certifying organization that, at a minimum, requires
5 the following for board certification:

6 (A) 90 hours of lactation-specific education;

7 (B) 24 college-level academic credits in health professional
8 courses; and

9 (C) At least 300 hours of clinical practice; or

10 (ii) Equivalent education and experience approved by the
11 secretary;

12 (b) Passage of an examination approved by the secretary;

13 (c) Good moral character;

14 (d) The physical and mental capability to safely provide
15 lactation care and services;

16 (e) Submission of an application on a form provided by the
17 department;

18 (f) Payment of a certification fee established by the secretary
19 in rule; and

20 (g) Has not engaged in unprofessional conduct as defined in RCW
21 18.130.180.

22 (3) The uniform disciplinary act, chapter 18.130 RCW, governs the
23 issuance and denial of certifications and the discipline of certified
24 lactation consultants under this chapter. The secretary is the
25 disciplining authority under this chapter.

26 (4) The secretary shall adopt rules specifying the requirements
27 for renewal of a lactation consultant's certification including, but
28 not limited to:

29 (a) Reasonably appropriate evidence of competency, as long as
30 such requirements are uniform as to application, are reasonably
31 related to the measurement of qualification, performance, or
32 competence, and are desirable and necessary for the protection of
33 public health; and

34 (b) Continuing education requirements consistent with the
35 requirements of the certifying organization approved under subsection
36 (2)(a)(i) of this section. The rules must allow an applicant to
37 successfully complete a criterion-referenced examination approved by
38 the secretary in lieu of the continuing education requirements.

39 (5) The secretary shall maintain a record of all applicants and
40 certifications under this chapter and establish administrative

1 procedures, administrative requirements, and fees for renewal or late
2 renewal as provided in RCW 43.70.250 and 43.70.280.

3 (6) All fees collected under this chapter must be credited to the
4 health professions account as required under RCW 43.70.320.

5 NEW SECTION. **Sec. 3.** (1) Nothing in this chapter prohibits a
6 person from practicing as a lactation consultant without obtaining
7 certification under this chapter.

8 (2) No person may use the title "state-certified lactation
9 consultant" in connection with the person's name to indicate or
10 imply, directly or indirectly, that the person is a state-certified
11 lactation consultant without being certified in accordance with this
12 chapter as a lactation consultant.

13 (3) Nothing in this chapter prohibits an individual who holds a
14 credential issued by this state to engage in the practice of
15 lactation consultation without obtaining a lactation consultant
16 credential if it is within that profession's scope of practice.

17 NEW SECTION. **Sec. 4.** An applicant holding a license in another
18 state may be certified as a lactation consultant in this state
19 without examination if the secretary determines that the other
20 state's licensing standards are substantially equivalent to the
21 standards in this state.

22 NEW SECTION. **Sec. 5.** A lactation consultant certified under
23 this chapter may perform lactation care and services including, but
24 not limited to:

25 (1) Lactation assessment through the systemic collection of
26 subjective and objective data;

27 (2) Analysis of data and creation of a plan of care;

28 (3) Implementation of a lactation care plan with demonstration
29 and instruction to parents and communication to the primary health
30 care provider;

31 (4) Evaluation of outcomes;

32 (5) Provision of lactation education to parents and health care
33 providers;

34 (6) The recommendation and use of assistive devices; and

35 (7) Other lactation care and services authorized in rule by the
36 secretary.

1 NEW SECTION. **Sec. 6.** An applicant with military training or
2 experience satisfies the training or experience requirements of this
3 chapter unless the secretary determines the military training or
4 experience is not substantially equivalent to the standards of this
5 state.

6 NEW SECTION. **Sec. 7.** The secretary may adopt any rules
7 necessary to implement this chapter.

8 **Sec. 8.** RCW 18.120.020 and 2020 c 80 s 22 are each amended to
9 read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Applicant group" includes any health professional group or
13 organization, any individual, or any other interested party which
14 proposes that any health professional group not presently regulated
15 be regulated or which proposes to substantially increase the scope of
16 practice of the profession.

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

23 (3) "Grandfather clause" means a provision in a regulatory
24 statute applicable to practitioners actively engaged in the regulated
25 health profession prior to the effective date of the regulatory
26 statute which exempts the practitioners from meeting the prerequisite
27 qualifications set forth in the regulatory statute to perform
28 prescribed occupational tasks.

29 (4) "Health professions" means and includes the following health
30 and health-related licensed or regulated professions and occupations:
31 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
32 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
33 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
34 dental anesthesia assistants under chapter 18.350 RCW; dispensing
35 opticians under chapter 18.34 RCW; hearing instruments under chapter
36 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
37 funeral directing under chapter 18.39 RCW; midwifery under chapter
38 18.50 RCW; nursing home administration under chapter 18.52 RCW;

1 optometry under chapters 18.53 and 18.54 RCW; ocularists under
2 chapter 18.55 RCW; osteopathic medicine and surgery under chapter
3 18.57 RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
4 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter
5 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses
6 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;
7 registered nurses under chapter 18.79 RCW; occupational therapists
8 licensed under chapter 18.59 RCW; respiratory care practitioners
9 licensed under chapter 18.89 RCW; veterinarians and veterinary
10 technicians under chapter 18.92 RCW; massage therapists under chapter
11 18.108 RCW; acupuncturists or acupuncture and Eastern medicine
12 practitioners licensed under chapter 18.06 RCW; persons registered
13 under chapter 18.19 RCW; persons licensed as mental health
14 counselors, marriage and family therapists, and social workers under
15 chapter 18.225 RCW; dietitians and nutritionists certified by chapter
16 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing
17 assistants registered or certified under chapter 18.88A RCW;
18 reflexologists certified under chapter 18.108 RCW; medical
19 assistants-certified, medical assistants-hemodialysis technician,
20 medical assistants-phlebotomist, forensic phlebotomist, and medical
21 assistants-registered certified and registered under chapter 18.360
22 RCW; ~~(and)~~ licensed behavior analysts, licensed assistant behavior
23 analysts, and certified behavior technicians under chapter 18.380
24 RCW; and, beginning January 1, 2024, lactation consultants certified
25 under chapter 18.--- RCW (the new chapter created in section 11 of
26 this act).

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

31 (6) "Legislative committees of reference" means the standing
32 legislative committees designated by the respective rules committees
33 of the senate and house of representatives to consider proposed
34 legislation to regulate health professions not previously regulated.

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

1 (8) "Practitioner" means an individual who (a) has achieved
2 knowledge and skill by practice, and (b) is actively engaged in a
3 specified health profession.

4 (9) "Professional license" means an individual, nontransferable
5 authorization to carry on a health activity based on qualifications
6 which include: (a) Graduation from an accredited or approved program,
7 and (b) acceptable performance on a qualifying examination or series
8 of examinations.

9 (10) "Public member" means an individual who is not, and never
10 was, a member of the health profession being regulated or the spouse
11 of a member, or an individual who does not have and never has had a
12 material financial interest in either the rendering of the health
13 professional service being regulated or an activity directly related
14 to the profession being regulated.

15 (11) "Registration" means the formal notification which, prior to
16 rendering services, a practitioner shall submit to a state agency
17 setting forth the name and address of the practitioner; the location,
18 nature and operation of the health activity to be practiced; and, if
19 required by the regulatory entity, a description of the service to be
20 provided.

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

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

29 **Sec. 9.** RCW 18.130.040 and 2022 c 217 s 5 are each amended to
30 read as follows:

31 (1) This chapter applies only to the secretary and the boards and
32 commissions having jurisdiction in relation to the professions
33 licensed under the chapters specified in this section. This chapter
34 does not apply to any business or profession not licensed under the
35 chapters specified in this section.

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

38 (i) Dispensing opticians licensed and designated apprentices
39 under chapter 18.34 RCW;

- 1 (ii) Midwives licensed under chapter 18.50 RCW;
- 2 (iii) Ocularists licensed under chapter 18.55 RCW;
- 3 (iv) Massage therapists and businesses licensed under chapter
4 18.108 RCW;
- 5 (v) Dental hygienists licensed under chapter 18.29 RCW;
- 6 (vi) Acupuncturists or acupuncture and Eastern medicine
7 practitioners licensed under chapter 18.06 RCW;
- 8 (vii) Radiologic technologists certified and X-ray technicians
9 registered under chapter 18.84 RCW;
- 10 (viii) Respiratory care practitioners licensed under chapter
11 18.89 RCW;
- 12 (ix) Hypnotherapists and agency affiliated counselors registered
13 and advisors and counselors certified under chapter 18.19 RCW;
- 14 (x) Persons licensed as mental health counselors, mental health
15 counselor associates, marriage and family therapists, marriage and
16 family therapist associates, social workers, social work associates—
17 advanced, and social work associates—independent clinical under
18 chapter 18.225 RCW;
- 19 (xi) Persons registered as nursing pool operators under chapter
20 18.52C RCW;
- 21 (xii) Nursing assistants registered or certified or medication
22 assistants endorsed under chapter 18.88A RCW;
- 23 (xiii) Dietitians and nutritionists certified under chapter
24 18.138 RCW;
- 25 (xiv) Substance use disorder professionals, substance use
26 disorder professional trainees, or co-occurring disorder specialists
27 certified under chapter 18.205 RCW;
- 28 (xv) Sex offender treatment providers and certified affiliate sex
29 offender treatment providers certified under chapter 18.155 RCW;
- 30 (xvi) Persons licensed and certified under chapter 18.73 RCW or
31 RCW 18.71.205;
- 32 (xvii) Orthotists and prosthetists licensed under chapter 18.200
33 RCW;
- 34 (xviii) Surgical technologists registered under chapter 18.215
35 RCW;
- 36 (xix) Recreational therapists under chapter 18.230 RCW;
- 37 (xx) Animal massage therapists certified under chapter 18.240
38 RCW;
- 39 (xxi) Athletic trainers licensed under chapter 18.250 RCW;
- 40 (xxii) Home care aides certified under chapter 18.88B RCW;

1 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;
2 (xxiv) Reflexologists certified under chapter 18.108 RCW;
3 (xxv) Medical assistants-certified, medical assistants-
4 hemodialysis technician, medical assistants-phlebotomist, forensic
5 phlebotomist, and medical assistants-registered certified and
6 registered under chapter 18.360 RCW;
7 (xxvi) Behavior analysts, assistant behavior analysts, and
8 behavior technicians under chapter 18.380 RCW; (~~and~~)
9 (xxvii) Birth doulas certified under chapter 18.47 RCW; and
10 (xxviii) Beginning January 1, 2024, lactation consultants
11 certified under chapter 18.--- RCW (the new chapter created in
12 section 11 of this act).
13 (b) The boards and commissions having authority under this
14 chapter are as follows:
15 (i) The podiatric medical board as established in chapter 18.22
16 RCW;
17 (ii) The chiropractic quality assurance commission as established
18 in chapter 18.25 RCW;
19 (iii) The dental quality assurance commission as established in
20 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
21 licenses and registrations issued under chapter 18.260 RCW, and
22 certifications issued under chapter 18.350 RCW;
23 (iv) The board of hearing and speech as established in chapter
24 18.35 RCW;
25 (v) The board of examiners for nursing home administrators as
26 established in chapter 18.52 RCW;
27 (vi) The optometry board as established in chapter 18.54 RCW
28 governing licenses issued under chapter 18.53 RCW;
29 (vii) The board of osteopathic medicine and surgery as
30 established in chapter 18.57 RCW governing licenses issued under
31 chapter 18.57 RCW;
32 (viii) The pharmacy quality assurance commission as established
33 in chapter 18.64 RCW governing licenses issued under chapters 18.64
34 and 18.64A RCW;
35 (ix) The Washington medical commission as established in chapter
36 18.71 RCW governing licenses and registrations issued under chapters
37 18.71 and 18.71A RCW;
38 (x) The board of physical therapy as established in chapter 18.74
39 RCW;

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

3 (xii) The nursing care quality assurance commission as
4 established in chapter 18.79 RCW governing licenses and registrations
5 issued under that chapter;

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

8 (xiv) The veterinary board of governors as established in chapter
9 18.92 RCW;

10 (xv) The board of naturopathy established in chapter 18.36A RCW,
11 governing licenses and certifications issued under that chapter; and

12 (xvi) The board of denturists established in chapter 18.30 RCW.

13 (3) In addition to the authority to discipline license holders,
14 the disciplining authority has the authority to grant or deny
15 licenses. The disciplining authority may also grant a license subject
16 to conditions.

17 (4) All disciplining authorities shall adopt procedures to ensure
18 substantially consistent application of this chapter, the uniform
19 disciplinary act, among the disciplining authorities listed in
20 subsection (2) of this section.

21 NEW SECTION. **Sec. 10.** The health care authority shall take any
22 steps which are necessary and proper to ensure that the services of
23 lactation consultants certified by an international governing body
24 who also hold a certification issued by the department of health are
25 covered under the state medicaid program by January 1, 2025.

26 NEW SECTION. **Sec. 11.** Sections 1 through 7 of this act
27 constitute a new chapter in Title 18 RCW.

28 NEW SECTION. **Sec. 12.** Sections 1 through 7 of this act take
29 effect January 1, 2024.

30 NEW SECTION. **Sec. 13.** Section 9 of this act takes effect
31 October 1, 2023.

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