
SENATE BILL 5715

State of Washington

55th Legislature

1997 Regular Session

By Senators Wood, Fairley, Franklin, Deccio and Winsley

Read first time 02/10/97. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to orthotic and prosthetic services; amending RCW
2 18.59.130; reenacting and amending RCW 18.130.040; adding a new chapter
3 to Title 18 RCW; creating a new section; and providing an effective
4 date.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
7 this act accomplish the following: Safeguard public health, safety,
8 and welfare; protect the public from being misled by unethical, ill-
9 prepared, unscrupulous, and unauthorized persons; assure the highest
10 degree of professional conduct on the part of orthotists and
11 prosthetists; and assure the availability of orthotic and prosthetic
12 services of high quality to persons in need of the services. The
13 purpose of this act is to provide for the regulation of persons
14 offering orthotic and prosthetic services to the public.

15 NEW SECTION. **Sec. 2.** The definitions in this section apply
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "Advisory committee" means the orthotics and prosthetics
18 advisory committee.

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

2 (3) "Secretary" means the secretary of health or the secretary's
3 designee.

4 (4) "Orthotics" means the science and practice of evaluating,
5 measuring, designing, fabricating, assembling, fitting, adjusting, or
6 servicing, as well as providing the initial training necessary to
7 accomplish the fitting of an orthosis for the support, correction, or
8 alleviation of neuromuscular or musculoskeletal dysfunction, disease,
9 injury, or deformity. The practice of orthotics encompasses
10 evaluation, treatment, and consultation. With basic observational gait
11 and postural analysis, orthotists assess and design orthoses to
12 maximize function, and provide not only the support but the alignment
13 necessary to either prevent or correct deformity or to improve the
14 safety and efficiency of mobility or locomotion, or both. Orthotic
15 practice includes providing continuing patient care in order to assess
16 its affect on the patient's tissues and to assure proper fit and
17 function of the orthotic device by periodic evaluation.

18 (5) "Orthotist" means a person licensed to practice orthotics under
19 this chapter.

20 (6) "Orthosis" means a custom-fabricated, definitive brace or
21 support that is designed for long-term use. Except for the treatment
22 of scoliosis, orthosis does not include prefabricated or direct-formed
23 orthotic devices, as defined in this section, or any of the following
24 assistive technology devices: Commercially available knee orthoses
25 used following injury or surgery; spastic muscle tone-inhibiting
26 orthoses; upper extremity adaptive equipment; finger splints; hand
27 splints; custom-made, leather wrist gauntlets; face masks used
28 following burns; wheelchair seating that is an integral part of the
29 wheelchair and not worn by the patient independent of the wheelchair;
30 fabric or elastic supports; corsets; arch supports, also known as foot
31 orthotics; low-temperature formed plastic splints; trusses; elastic
32 hose; canes; crutches; cervical collars; dental appliances; and other
33 similar devices as determined by the secretary, such as those commonly
34 carried in stock by a pharmacy, department store, corset shop, or
35 surgical supply facility. Prefabricated orthoses, also known as
36 custom-fitted, or off-the-shelf, are devices that are manufactured as
37 commercially available stock items for no specific patient. Direct-
38 formed orthoses are devices formed or shaped during the molding process
39 directly on the patient's body or body segment. Custom-fabricated

1 orthoses, also known as custom-made orthoses, are devices designed and
2 fabricated, in turn, from raw materials for a specific patient, and
3 require the generation of an image, form, or mold that replicates the
4 patient's body or body segment, and, in turn, involves the
5 rectification of dimensions, contours, and volumes to achieve proper
6 fit, comfort, and function for that specific patient.

7 (7) "Prosthetics" means the science and practice of evaluating,
8 measuring, designing, fabricating, assembling, fitting, aligning,
9 adjusting, or servicing, as well as providing the initial training
10 necessary to accomplish the fitting of a prosthesis through the
11 replacement of external parts of a human body lost due to amputation or
12 congenital deformities or absences. The practice of prosthetics also
13 includes the generation of an image, form, or mold that replicates the
14 patient's body or body segment and that requires rectification of
15 dimensions, contours, and volumes for use in the design and fabrication
16 of a socket to accept a residual anatomic limb to, in turn, create an
17 artificial appendage that is designed either to support body weight, or
18 to improve or restore function or cosmesis, or both. Involved in the
19 practice of prosthetics is observational gait analysis and clinical
20 assessment of the requirements necessary to refine and mechanically fix
21 the relative position of various parts of the prosthesis to maximize
22 the function, stability, and safety of the patient. The practice of
23 prosthetics includes providing continuing patient care in order to
24 assess the prosthetic device's effect on the patient's tissues and to
25 assure proper fit and function of the prosthetic device by periodic
26 evaluation.

27 (8) "Prosthetist" means a person who is licensed to practice
28 prosthetics under this chapter.

29 (9) "Prosthesis" means a definitive artificial limb that is
30 alignable, or articulated, or, in lower extremity applications, capable
31 of weight bearing. Prosthesis means an artificial medical device that
32 is not surgically implanted and that is used to replace a missing limb,
33 appendage, or other external human body part including an artificial
34 limb, hand, or foot. The term does not include artificial eyes, ears,
35 fingers or toes, dental appliances, ostomy products, cosmetic devices
36 such as artificial breasts, eyelashes, or wigs, or other devices as
37 determined by the secretary that do not have a significant impact on
38 the musculoskeletal functions of the body. In the lower extremity of
39 the body, the term prosthesis does not include prostheses required for

1 amputations distal to and including the transmetatarsal level. In the
2 upper extremity of the body, the term prosthesis does not include
3 prostheses that are provided to restore function for amputations distal
4 to and including the carpal level.

5 (10) "Authorized health care practitioner" means licensed
6 physicians, physician's assistants, osteopathic physicians,
7 chiropractors, naturopaths, podiatric physicians and surgeons,
8 dentists, and advanced registered nurse practitioners.

9 NEW SECTION. **Sec. 3.** An orthotist or prosthetist may only provide
10 treatment utilizing new orthoses or prostheses for which the orthotist
11 or prosthetist is licensed to do so, and only under an order from or
12 referral by an authorized health care practitioner. A consultation and
13 periodic review by an authorized health care practitioner is not
14 required for evaluation, repair, adjusting, or servicing of orthoses by
15 a licensed orthotist and, servicing of prostheses by a licensed
16 prosthetist. Nor is an authorized health care practitioner's order
17 required for maintenance of an orthosis or prosthesis to the level of
18 its original prescription for an indefinite period of time if the order
19 remains appropriate for the patient's medical needs.

20 Orthotists and prosthetists must refer persons under their care to
21 authorized health care practitioners if they have reasonable cause to
22 believe symptoms or conditions are present that require services beyond
23 the scope of their practice or for which the prescribed orthotic or
24 prosthetic treatment is contraindicated.

25 NEW SECTION. **Sec. 4.** No person may represent oneself as a
26 licensed orthotist or prosthetist, use a title or description of
27 services, or engage in the practice of orthotics or prosthetics without
28 applying for licensure, meeting the required qualifications, and being
29 licensed by the department of health, unless otherwise exempted by this
30 chapter.

31 A person not licensed with the secretary must not represent himself
32 or herself as being so licensed and may not use in connection with his
33 or her name the words or letters "L.O.," "L.P.," or "L.P.O.," or other
34 letters, words, signs, numbers, or insignia indicating or implying that
35 he or she is either a licensed orthotist, or a licensed prosthetist, or
36 both. No person may practice orthotics or prosthetics without first

1 having a valid license. The license must be posted in a conspicuous
2 location at the person's work site.

3 NEW SECTION. **Sec. 5.** Nothing in this chapter shall be construed
4 to prohibit or restrict:

5 (1) The practice by individuals listed under RCW 18.130.040 and
6 performing services within their authorized scopes of practice;

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

10 (3) The practice by a person who is a regular student in an
11 orthotic or prosthetic educational program approved by the secretary,
12 and whose performance of services is pursuant to a regular course of
13 instruction or assignments from an instructor and under the general
14 supervision of the instructor, if the person is designated by a title
15 that clearly indicates the person's status as a student or trainee;

16 (4) A person fulfilling the supervised residency or internship
17 experience requirements described in section 8 of this act, if the
18 activities and services constitute a part of the experience necessary
19 to meet the requirements of this chapter; or

20 (5) A person from performing orthotic or prosthetic services in
21 this state if: (a) The services are performed for no more than ninety
22 working days; and (b) the person is licensed in another state or has
23 met commonly accepted standards for the practice of orthotics or
24 prosthetics as determined by the secretary.

25 NEW SECTION. **Sec. 6.** In addition to other authority provided by
26 law, the secretary has the authority to:

27 (1) Adopt rules under chapter 34.05 RCW necessary to implement this
28 chapter;

29 (2) Establish administrative procedures, administrative
30 requirements, and fees in accordance with RCW 43.70.250 and 43.70.280.
31 All fees collected under this section must be credited to the health
32 professions account as required under RCW 43.70.320;

33 (3) Register applicants, and issue licenses to applicants who have
34 met the education, training, and examination requirements for licensure
35 and to deny a license to applicants who do not meet the minimum
36 qualifications, except that proceedings concerning the denial of

1 credentials based upon unprofessional conduct or impairment are
2 governed by the uniform disciplinary act, chapter 18.130 RCW;

3 (4) Hire clerical, administrative, investigative, and other staff
4 as needed to implement this chapter, and hire individuals licensed
5 under this chapter to serve as examiners for any practical
6 examinations;

7 (5) Determine minimum education requirements and evaluate and
8 designate those educational programs from which graduation will be
9 accepted as proof of eligibility to take a qualifying examination for
10 applicants for licensure;

11 (6) Establish by rule the standards and procedures for revocation
12 of approval of education programs;

13 (7) Utilize or contract with individuals or organizations having
14 expertise in the profession or in education to assist in the
15 evaluations;

16 (8) Prepare and administer, or approve the preparation and
17 administration of, examinations for applicants for licensure;

18 (9) Approve an examination prepared or administered by a private
19 testing agency or association of licensing agencies for use by an
20 applicant in meeting the licensing requirements;

21 (10) Determine whether alternative methods of training are
22 equivalent to formal education, and establish forms, procedures, and
23 criteria for evaluation of an applicant's alternative training to
24 determine the applicant's eligibility to take any qualifying
25 examination;

26 (11) Determine which jurisdictions have licensing requirements
27 equivalent to those of this state, and issue licenses without
28 examinations to individuals licensed in those jurisdictions;

29 (12) Define and approve any experience requirement for licensing;

30 (13) Implement and administer a program for consumer education;

31 (14) Adopt rules implementing continuing competency requirements
32 for renewal of the license and relicensing;

33 (15) Maintain the official department records of all applicants and
34 licensees;

35 (16) Establish by rule the procedures for an appeal of an
36 examination failure;

37 (17) Establish requirements and procedures for an inactive license;

38 and

1 (18) Upon the advice of the advisory committee, the secretary may
2 recommend collaboration with health professions, boards, and
3 commissions to develop appropriate referral protocols.

4 NEW SECTION. **Sec. 7.** (1) The secretary has the authority to
5 appoint an advisory committee to further the purposes of this chapter.
6 The secretary may consider the persons who are recommended for
7 appointment by the orthotic and prosthetic associations of the state.
8 The committee is composed of five members, one member initially
9 appointed for a term of one year, two for a term of two years, and two
10 for a term of three years. Subsequent appointments are for terms of
11 three years. No person may serve as a member of the committee for more
12 than two consecutive terms. Members of the advisory committee must be
13 residents of this state and citizens of the United States. The
14 committee is composed of three individuals licensed in the category
15 designated and engaged in rendering services to the public. Two
16 members must at all times be holders of licenses for the practice of
17 either prosthetics, or orthotics, or both, in this state, except for
18 the initial members of the advisory committee, all of whom must fulfill
19 the requirements for licensure under this chapter. One member must be
20 a practicing orthotist. One member must be a practicing prosthetist.
21 One member must be licensed by the state as a physician licensed under
22 chapters 18.57 or 18.71 RCW, specializing in orthopedic medicine or
23 surgery, or physiatry. Two members must represent the public at large
24 and are unaffiliated directly or indirectly with the profession being
25 credentialed but, to the extent possible, are consumers of orthotic and
26 prosthetic services. The two members appointed to the advisory
27 committee representing the public at large must have an interest in the
28 rights of consumers of health services, and must not be or have been a
29 member of another licensing committee, a licensee of a health
30 occupation committee, an employee of a health facility, nor derive his
31 or her primary livelihood from the provision of health services at any
32 level of responsibility.

33 (2) The secretary may remove any member of the advisory committee
34 for cause as specified by rule. In the case of a vacancy, the
35 secretary must appoint a person to serve for the remainder of the
36 unexpired term.

37 (3) The advisory committee may provide advice on matters
38 specifically identified and requested by the secretary, such as

1 applications for licenses. The advisory committee may recommend the
2 fees in amounts reasonable and necessary to carry out the program.

3 (4) The advisory committee may be requested by the secretary to
4 approve an examination required for licensure under this chapter.

5 (5) The advisory committee may be requested by the secretary to
6 review and monitor the exemptions to requirements of certain orthoses
7 and prostheses in this chapter and recommend to the secretary any
8 statutory changes that may be needed to properly protect the public.

9 (6) The advisory committee, at the request of the secretary, may
10 recommend rules in accordance with the administrative procedure act,
11 chapter 34.05 RCW, relating to standards for appropriateness of
12 orthotic and prosthetic care.

13 (7) The advisory committee must meet at the times and places
14 designated by the secretary and hold meetings during the year as
15 necessary to provide advice to the secretary. The committee may elect
16 a chair and a vice-chair. A majority of the members currently serving
17 constitute a quorum.

18 (8) Each member of an advisory committee shall be reimbursed for
19 travel expenses as authorized in RCW 43.03.050 and 43.03.060. In
20 addition, members of the committees shall be compensated in accordance
21 with RCW 43.03.240 when engaged in the authorized business of their
22 committees.

23 (9) The secretary, members of advisory committees, or individuals
24 acting on their behalf are immune from suit in any action, civil or
25 criminal, based on any credentialing or disciplinary proceedings or
26 other official acts performed in the course of their duties.

27 NEW SECTION. **Sec. 8.** (1) An orthotist or prosthetist must file a
28 written application on forms provided by the department showing to the
29 satisfaction of the secretary, in consultation with the advisory
30 committee, that the applicant meets the following requirements:

31 (a) The applicant possesses a baccalaureate degree with coursework
32 appropriate for the profession approved by the secretary;

33 (b) The applicant has the amount of formal training, including the
34 hours of classroom education and clinical practice, in areas of study
35 as the secretary deems necessary and appropriate;

36 (c) The applicant has completed a one-year clinical internship or
37 residency in the professional area for which a license is sought in
38 accordance with the standards, guidelines, or procedures for clinical

1 internships or residencies inside or outside the state as established
2 by the secretary;

3 (d) An applicant for licensure as either an orthotist or
4 prosthetist, must:

5 (i) Pass all written and practical examinations that are required
6 and approved by the secretary in consultation with the advisory
7 committee; and

8 (ii) Fulfill the requirements for full-time clinical experience
9 under the supervision of an orthotist or prosthetist, for a duration of
10 at least one year, or for a period of time established by the
11 secretary.

12 (2) The standards and requirements for licensure established by the
13 secretary must be substantially equal to the standards commonly
14 accepted in the fields of orthotics and prosthetics.

15 (3) An applicant failing to make the required grade in the first
16 examination may take up to three subsequent examinations as the
17 applicant desires upon prepaying a fee, determined by the secretary
18 under RCW 43.70.250, for each subsequent examination. Upon failing
19 four examinations, the secretary may invalidate the original
20 application and require remedial education before the person may take
21 future examinations. The secretary may waive some of the educational
22 or experience requirements of this section if the secretary determines
23 that the person meets alternative standards established by the
24 secretary.

25 NEW SECTION. **Sec. 9.** The secretary may waive the education and
26 experience requirements for licensure under section 8(1)(a) through (d)
27 of this act for applicants for licensure who present evidence to the
28 secretary that they have practiced full time for five of the past six
29 years and have provided comprehensive orthotic or prosthetic, or
30 orthotic and prosthetic clinical care in an established orthotic and
31 prosthetic facility for five of the six years immediately prior to
32 December 1, 1998. The application must be filed with the secretary by
33 December 1, 1999, in order to continue to practice either orthotics or
34 prosthetics under the provisions of this chapter without taking an
35 examination as required under this chapter.

36 This section applies only to those individuals who file an
37 application for waiver within one year of the establishment of the
38 authorized practice.

1 NEW SECTION. **Sec. 10.** An applicant holding a license in another
2 state or a territory of the United States may be licensed to practice
3 in this state without examination if the secretary determines that the
4 other jurisdiction's credentialing standards are substantially
5 equivalent to the standards in this jurisdiction.

6 NEW SECTION. **Sec. 11.** The uniform disciplinary act, chapter
7 18.130 RCW, shall govern the issuance and denial of licenses,
8 unauthorized practice, and the discipline of persons licensed under
9 this chapter. The secretary shall be the disciplining authority under
10 this chapter.

11 NEW SECTION. **Sec. 12.** This chapter only applies to an orthotic or
12 prosthetic business or to a professional practice regulated under the
13 laws of this state if this chapter is specifically referenced in the
14 laws regulating the orthotic or prosthetic business or profession.

15 NEW SECTION. **Sec. 13.** This chapter is known and may be cited as
16 the orthotics and prosthetics practice act.

17 **Sec. 14.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
18 each reenacted and amended to read as follows:

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

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

26 (i) Dispensing opticians licensed under chapter 18.34 RCW;

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

28 (iii) Midwives licensed under chapter 18.50 RCW;

29 (iv) Ocularists licensed under chapter 18.55 RCW;

30 (v) Massage operators and businesses licensed under chapter 18.108
31 RCW;

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

33 (vii) Acupuncturists licensed under chapter 18.06 RCW;

34 (viii) Radiologic technologists certified and X-ray technicians
35 registered under chapter 18.84 RCW;

1 (ix) Respiratory care practitioners certified under chapter 18.89
2 RCW;

3 (x) Persons registered or certified under chapter 18.19 RCW;

4 (xi) Persons registered as nursing pool operators under chapter
5 18.52C RCW;

6 (xii) Nursing assistants registered or certified under chapter
7 18.79 RCW;

8 (xiii) Health care assistants certified under chapter 18.135 RCW;

9 (xiv) Dietitians and nutritionists certified under chapter 18.138
10 RCW;

11 (xv) Sex offender treatment providers certified under chapter
12 18.155 RCW;

13 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
14 18.71.205;

15 (xvii) Persons registered as adult family home providers and
16 resident managers under RCW 18.48.020; (~~and~~)

17 (xviii) Denturists licensed under chapter 18.30 RCW; and

18 (xix) Orthotists and prosthetists licensed under chapter 18.-- RCW
19 (sections 2 through 13 of this act).

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

22 (i) The podiatric medical board as established in chapter 18.22
23 RCW;

24 (ii) The chiropractic quality assurance commission as established
25 in chapter 18.25 RCW;

26 (iii) The dental quality assurance commission as established in
27 chapter 18.32 RCW;

28 (iv) The board of hearing and speech as established in chapter
29 18.35 RCW;

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

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

34 (vii) The board of osteopathic medicine and surgery as established
35 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
36 18.57A RCW;

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

1 (ix) The medical quality assurance commission as established in
2 chapter 18.71 RCW governing licenses and registrations issued under
3 chapters 18.71 and 18.71A RCW;

4 (x) The board of physical therapy as established in chapter 18.74
5 RCW;

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

8 (xii) The nursing care quality assurance commission as established
9 in chapter 18.79 RCW governing licenses issued under that chapter;

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

12 (xiv) The veterinary board of governors as established in chapter
13 18.92 RCW.

14 (3) In addition to the authority to discipline license holders, the
15 disciplining authority has the authority to grant or deny licenses
16 based on the conditions and criteria established in this chapter and
17 the chapters specified in subsection (2) of this section. This chapter
18 also governs any investigation, hearing, or proceeding relating to
19 denial of licensure or issuance of a license conditioned on the
20 applicant's compliance with an order entered pursuant to RCW 18.130.160
21 by the disciplining authority.

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

26 **Sec. 15.** RCW 18.59.130 and 1986 c 259 s 102 are each amended to
27 read as follows:

28 (1) The board shall administer, coordinate, and enforce this
29 chapter, evaluate qualifications under this chapter, and provide for
30 supervision of examinations of applicants for licensure under this
31 chapter.

32 (2) The board may adopt such rules as it deems necessary in the
33 administration of this chapter.

34 (3) The board must develop rules to establish a process by which
35 the orthotic and prosthetic devices made by occupational therapists, as
36 defined in RCW 18.59.020(3), are selected.

1 NEW SECTION. **Sec. 16.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 17.** Sections 2 through 13 of this act
6 constitute a new chapter in Title 18 RCW.

7 NEW SECTION. **Sec. 18.** Sections 1 through 5 and 8 through 13 of
8 this act take effect December 1, 1998.

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