

2 SSB 6000 - S AMD 101

3 By Senators Deccio and Thibaudeau

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 18.53.010 and 1989 c 36 s 1 are each amended to read
8 as follows:

9 (1) The practice of optometry is defined as the examination of the
10 human eye, the examination and ascertaining any defects of the human
11 vision system ~~((and))~~, the analysis of the process of vision, and the
12 treatment of the human eye and the human vision system. The practice
13 of optometry ~~((may))~~ includes, but is not ~~((necessarily be))~~ limited
14 to, the following:

15 (a) The employment of any objective or subjective means or method,
16 including the use of drugs ~~((topically applied to the eye))~~, for
17 diagnostic and therapeutic purposes by those licensed under this
18 chapter and who meet the requirements of subsections (2) and (3) of
19 this section, and the use of any diagnostic instruments or devices for
20 the examination or analysis of the human vision system, the measurement
21 of the powers or range of human vision, or the determination of the
22 refractive powers of the human eye or its functions in general; and

23 (b) The prescription and fitting of lenses, prisms, therapeutic or
24 refractive contact lenses and the adaption or adjustment of frames and
25 lenses used in connection therewith; and

26 (c) The prescription and provision of visual therapy, therapeutic
27 aids, and other optical devices ~~((, and the treatment with topically~~
28 ~~applied drugs by those licensed under this chapter and who meet the~~
29 ~~requirements of subsections (2) and (3) of this section))~~; and

30 (d) The ascertainment of the perceptive, neural, muscular, or
31 pathological condition of the visual system; and

32 (e) The adaptation of prosthetic eyes.

33 (2)(a) Those persons using drugs for diagnostic purposes in the
34 practice of optometry shall have a minimum of sixty hours of didactic
35 and clinical instruction in general and ocular pharmacology as applied
36 to optometry ~~((, and for therapeutic purposes, an additional minimum of~~

1 ~~seventy-five hours of didactic and clinical instruction~~) as
2 established by the board, and certification from an institution of
3 higher learning, accredited by those agencies recognized by the United
4 States office of education or the council on postsecondary
5 accreditation to qualify for certification by the optometry board of
6 Washington to use drugs for diagnostic and therapeutic purposes.

7 (b) Those persons using or prescribing topical drugs for
8 therapeutic purposes in the practice of optometry shall be certified
9 under (a) of this subsection, and shall have an additional minimum of
10 seventy-five hours of didactic and clinical instruction as established
11 by the board, and certification from an institution of higher learning,
12 accredited by those agencies recognized by the United States office of
13 education or the council on postsecondary accreditation to qualify for
14 certification by the optometry board of Washington to use drugs for
15 therapeutic purposes.

16 (c) Those persons using or prescribing drugs administered by
17 injection of epinephrine for anaphylactic shock or orally for
18 therapeutic purposes in the practice of optometry shall be certified
19 under (b) of this subsection, and shall have an additional minimum of
20 twenty hours of didactic and clinical instruction as established by the
21 board, and certification from an institution of higher learning,
22 accredited by those agencies recognized by the United States office of
23 education or the council on postsecondary accreditation to qualify for
24 certification by the optometry board of Washington to use drugs
25 administered orally for therapeutic purposes.

26 (d) Such course or courses shall be the fiscal responsibility of
27 the participating and attending optometrist.

28 (3) The board shall establish a schedule of drugs for diagnostic
29 and treatment purposes limited to the practice of optometry, and no
30 person licensed pursuant to this chapter shall prescribe, dispense,
31 purchase, possess, or administer drugs except as authorized and to the
32 extent permitted by the board.

33 (a) The board shall establish, by rule, specific guidelines for the
34 prescription and administration of drugs by optometrists, so that
35 licensed optometrists and persons filling their prescriptions have a
36 clear understanding of which drugs and which dosages or forms are
37 included in the authority granted by this section.

38 (b) Optometrists shall not prescribe, dispense, or administer a
39 controlled substance for pain for more than seven days in treating a

1 particular patient for a single trauma, episode, or condition.
2 Following seven days, if a patient's condition has not improved and
3 requires further treatment the optometrist must consult with the
4 ophthalmologist identified in the protocol. Optometrists may only
5 prescribe, dispense, or administer Schedule II controlled substances
6 subject to a protocol between the optometrist and an ophthalmologist
7 licensed under chapter 18.57 or 18.71 RCW. The board, the medical
8 quality assurance commission, and the board of osteopathic medicine and
9 surgery shall adopt rules for establishing protocols. The board with
10 the board of pharmacy shall establish by rule a formulary of controlled
11 substances for the treatment of pain.

12 (c) The prescription or administration of drugs as authorized in
13 this section is specifically limited to those drugs appropriate to
14 treatment of diseases or conditions of the vision system that are
15 within the scope of practice of optometry. The only drug an
16 optometrist may administer by injection is epinephrine for anaphylactic
17 shock. The prescription or administration of drugs for any other
18 purpose is not authorized by this section.

19 (4) The board shall develop a means of identification and
20 verification of optometrists certified to use therapeutic drugs for the
21 purpose of issuing prescriptions as authorized by this section.

22 **Sec. 2.** RCW 18.53.140 and 1991 c 3 s 138 are each amended to read
23 as follows:

24 It shall be unlawful for any person:

25 (1) To sell or barter, or offer to sell or barter any license
26 issued by the secretary; or

27 (2) To purchase or procure by barter any license with the intent to
28 use the same as evidence of the holder's qualification to practice
29 optometry; or

30 (3) To alter with fraudulent intent in any material regard such
31 license; or

32 (4) To use or attempt to use any such license which has been
33 purchased, fraudulently issued, counterfeited or materially altered as
34 a valid license; or

35 (5) To practice optometry under a false or assumed name, or as a
36 representative or agent of any person, firm or corporation with which
37 the licensee has no connection: PROVIDED, Nothing in this chapter nor
38 in the optometry law shall make it unlawful for any lawfully licensed

1 optometrist or association of lawfully licensed optometrists to
2 practice optometry under the name of any lawfully licensed optometrist
3 who may transfer by inheritance or otherwise the right to use such
4 name; or

5 (6) To practice optometry in this state either for him or herself
6 or any other individual, corporation, partnership, group, public or
7 private entity, or any member of the licensed healing arts without
8 having at the time of so doing a valid license issued by the secretary
9 of health; or

10 (7) To in any manner barter or give away as premiums either on his
11 own account or as agent or representative for any other purpose, firm
12 or corporation, any eyeglasses, spectacles, lenses or frames; or

13 (8) To use drugs in the practice of optometry, except ((those
14 ~~topically applied for diagnostic or therapeutic purposes~~)) as
15 authorized under RCW 18.53.010; or

16 (9) To use advertising whether printed, radio, display, or of any
17 other nature, which is misleading or inaccurate in any material
18 particular, nor shall any such person in any way misrepresent any goods
19 or services (including but without limitation, its use, trademark,
20 grade, quality, size, origin, substance, character, nature, finish,
21 material, content, or preparation) or credit terms, values, policies,
22 services, or the nature or form of the business conducted; or

23 (10) To advertise the "free examination of eyes," "free
24 consultation," "consultation without obligation," "free advice," or any
25 words or phrases of similar import which convey the impression to the
26 public that eyes are examined free or of a character tending to deceive
27 or mislead the public, or in the nature of "bait advertising;" or

28 (11) To use an advertisement of a frame or mounting which is not
29 truthful in describing the frame or mounting and all its component
30 parts. Or advertise a frame or mounting at a price, unless it shall be
31 depicted in the advertisement without lenses inserted, and in addition
32 the advertisement must contain a statement immediately following, or
33 adjacent to the advertised price, that the price is for frame or
34 mounting only, and does not include lenses, eye examination and
35 professional services, which statement shall appear in type as large as
36 that used for the price, or advertise lenses or complete glasses, viz.:
37 frame or mounting with lenses included, at a price either alone or in
38 conjunction with professional services; or

1 (12) To use advertising, whether printed, radio, display, or of any
2 other nature, which inaccurately lays claim to a policy or continuing
3 practice of generally underselling competitors; or

4 (13) To use advertising, whether printed, radio, display or of any
5 other nature which refers inaccurately in any material particular to
6 any competitors or their goods, prices, values, credit terms, policies
7 or services; or

8 (14) To use advertising whether printed, radio, display, or of any
9 other nature, which states any definite amount of money as "down
10 payment" and any definite amount of money as a subsequent payment, be
11 it daily, weekly, monthly, or at the end of any period of time.

12 **Sec. 3.** RCW 69.41.030 and 1996 c 178 s 17 are each amended to read
13 as follows:

14 It shall be unlawful for any person to sell, deliver, or possess
15 any legend drug except upon the order or prescription of a physician
16 under chapter 18.71 RCW, an osteopathic physician and surgeon under
17 chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who
18 is certified by the optometry board under RCW 18.53.010, a dentist
19 under chapter 18.32 RCW, a podiatric physician and surgeon under
20 chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
21 commissioned medical or dental officer in the United States armed
22 forces or public health service in the discharge of his or her official
23 duties, a duly licensed physician or dentist employed by the veterans
24 administration in the discharge of his or her official duties, a
25 registered nurse or advanced registered nurse practitioner under
26 chapter 18.79 RCW when authorized by the nursing care quality assurance
27 commission, an osteopathic physician assistant under chapter 18.57A RCW
28 when authorized by the board of osteopathic medicine and surgery, a
29 physician assistant under chapter 18.71A RCW when authorized by the
30 medical quality assurance commission, a physician licensed to practice
31 medicine and surgery or a physician licensed to practice osteopathic
32 medicine and surgery, a dentist licensed to practice dentistry, a
33 podiatric physician and surgeon licensed to practice podiatric medicine
34 and surgery, or a veterinarian licensed to practice veterinary
35 medicine, in any province of Canada which shares a common border with
36 the state of Washington or in any state of the United States:
37 PROVIDED, HOWEVER, That the above provisions shall not apply to sale,
38 delivery, or possession by drug wholesalers or drug manufacturers, or

1 their agents or employees, or to any practitioner acting within the
2 scope of his or her license, or to a common or contract carrier or
3 warehouseman, or any employee thereof, whose possession of any legend
4 drug is in the usual course of business or employment: PROVIDED
5 FURTHER, That nothing in this chapter or chapter 18.64 RCW shall
6 prevent a family planning clinic that is under contract with the
7 department of social and health services from selling, delivering,
8 possessing, and dispensing commercially prepackaged oral contraceptives
9 prescribed by authorized, licensed health care practitioners.

10 **Sec. 4.** RCW 69.50.101 and 1998 c 222 s 3 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, definitions of terms
13 shall be as indicated where used in this chapter:

14 (a) "Administer" means to apply a controlled substance, whether by
15 injection, inhalation, ingestion, or any other means, directly to the
16 body of a patient or research subject by:

17 (1) a practitioner authorized to prescribe (or, by the
18 practitioner's authorized agent); or

19 (2) the patient or research subject at the direction and in the
20 presence of the practitioner.

21 (b) "Agent" means an authorized person who acts on behalf of or at
22 the direction of a manufacturer, distributor, or dispenser. It does
23 not include a common or contract carrier, public warehouseperson, or
24 employee of the carrier or warehouseperson.

25 (c) "Board" means the state board of pharmacy.

26 (d) "Controlled substance" means a drug, substance, or immediate
27 precursor included in Schedules I through V as set forth in federal or
28 state laws, or federal or board rules.

29 (e)(1) "Controlled substance analog" means a substance the chemical
30 structure of which is substantially similar to the chemical structure
31 of a controlled substance in Schedule I or II and:

32 (i) that has a stimulant, depressant, or hallucinogenic effect on
33 the central nervous system substantially similar to the stimulant,
34 depressant, or hallucinogenic effect on the central nervous system of
35 a controlled substance included in Schedule I or II; or

36 (ii) with respect to a particular individual, that the individual
37 represents or intends to have a stimulant, depressant, or
38 hallucinogenic effect on the central nervous system substantially

1 similar to the stimulant, depressant, or hallucinogenic effect on the
2 central nervous system of a controlled substance included in Schedule
3 I or II.

4 (2) The term does not include:

5 (i) a controlled substance;

6 (ii) a substance for which there is an approved new drug
7 application;

8 (iii) a substance with respect to which an exemption is in effect
9 for investigational use by a particular person under Section 505 of the
10 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent
11 conduct with respect to the substance is pursuant to the exemption; or

12 (iv) any substance to the extent not intended for human consumption
13 before an exemption takes effect with respect to the substance.

14 (f) "Deliver" or "delivery," means the actual or constructive
15 transfer from one person to another of a substance, whether or not
16 there is an agency relationship.

17 (g) "Department" means the department of health.

18 (h) "Dispense" means the interpretation of a prescription or order
19 for a controlled substance and, pursuant to that prescription or order,
20 the proper selection, measuring, compounding, labeling, or packaging
21 necessary to prepare that prescription or order for delivery.

22 (i) "Dispenser" means a practitioner who dispenses.

23 (j) "Distribute" means to deliver other than by administering or
24 dispensing a controlled substance.

25 (k) "Distributor" means a person who distributes.

26 (l) "Drug" means (1) a controlled substance recognized as a drug in
27 the official United States pharmacopoeia/national formulary or the
28 official homeopathic pharmacopoeia of the United States, or any
29 supplement to them; (2) controlled substances intended for use in the
30 diagnosis, cure, mitigation, treatment, or prevention of disease in
31 individuals or animals; (3) controlled substances (other than food)
32 intended to affect the structure or any function of the body of
33 individuals or animals; and (4) controlled substances intended for use
34 as a component of any article specified in (1), (2), or (3) of this
35 subsection. The term does not include devices or their components,
36 parts, or accessories.

37 (m) "Drug enforcement administration" means the drug enforcement
38 administration in the United States Department of Justice, or its
39 successor agency.

1 (n) "Immediate precursor" means a substance:

2 (1) that the state board of pharmacy has found to be and by rule
3 designates as being the principal compound commonly used, or produced
4 primarily for use, in the manufacture of a controlled substance;

5 (2) that is an immediate chemical intermediary used or likely to be
6 used in the manufacture of a controlled substance; and

7 (3) the control of which is necessary to prevent, curtail, or limit
8 the manufacture of the controlled substance.

9 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
10 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
11 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
12 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
13 69.50.204(c), and 69.50.208(a) the term includes any positional or
14 geometric isomer.

15 (p) "Manufacture" means the production, preparation, propagation,
16 compounding, conversion, or processing of a controlled substance,
17 either directly or indirectly or by extraction from substances of
18 natural origin, or independently by means of chemical synthesis, or by
19 a combination of extraction and chemical synthesis, and includes any
20 packaging or repackaging of the substance or labeling or relabeling of
21 its container. The term does not include the preparation, compounding,
22 packaging, repackaging, labeling, or relabeling of a controlled
23 substance:

24 (1) by a practitioner as an incident to the practitioner's
25 administering or dispensing of a controlled substance in the course of
26 the practitioner's professional practice; or

27 (2) by a practitioner, or by the practitioner's authorized agent
28 under the practitioner's supervision, for the purpose of, or as an
29 incident to, research, teaching, or chemical analysis and not for sale.

30 (q) "Marijuana" or "marihuana" means all parts of the plant
31 Cannabis, whether growing or not; the seeds thereof; the resin
32 extracted from any part of the plant; and every compound, manufacture,
33 salt, derivative, mixture, or preparation of the plant, its seeds or
34 resin. The term does not include the mature stalks of the plant, fiber
35 produced from the stalks, oil or cake made from the seeds of the plant,
36 any other compound, manufacture, salt, derivative, mixture, or
37 preparation of the mature stalks (except the resin extracted
38 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
39 which is incapable of germination.

1 (r) "Narcotic drug" means any of the following, whether produced
2 directly or indirectly by extraction from substances of vegetable
3 origin, or independently by means of chemical synthesis, or by a
4 combination of extraction and chemical synthesis:

5 (1) Opium, opium derivative, and any derivative of opium or opium
6 derivative, including their salts, isomers, and salts of isomers,
7 whenever the existence of the salts, isomers, and salts of isomers is
8 possible within the specific chemical designation. The term does not
9 include the isoquinoline alkaloids of opium.

10 (2) Synthetic opiate and any derivative of synthetic opiate,
11 including their isomers, esters, ethers, salts, and salts of isomers,
12 esters, and ethers, whenever the existence of the isomers, esters,
13 ethers, and salts is possible within the specific chemical designation.

14 (3) Poppy straw and concentrate of poppy straw.

15 (4) Coca leaves, except coca leaves and extracts of coca leaves
16 from which cocaine, ecgonine, and derivatives or ecgonine or their
17 salts have been removed.

18 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

19 (6) Cocaine base.

20 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
21 thereof.

22 (8) Any compound, mixture, or preparation containing any quantity
23 of any substance referred to in subparagraphs (1) through (7).

24 (s) "Opiate" means any substance having an addiction-forming or
25 addiction-sustaining liability similar to morphine or being capable of
26 conversion into a drug having addiction-forming or addiction-sustaining
27 liability. The term includes opium, substances derived from opium
28 (opium derivatives), and synthetic opiates. The term does not include,
29 unless specifically designated as controlled under RCW 69.50.201, the
30 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
31 (dextromethorphan). The term includes the racemic and levorotatory
32 forms of dextromethorphan.

33 (t) "Opium poppy" means the plant of the species *Papaver somniferum*
34 L., except its seeds.

35 (u) "Person" means individual, corporation, business trust, estate,
36 trust, partnership, association, joint venture, government,
37 governmental subdivision or agency, or any other legal or commercial
38 entity.

1 (v) "Poppy straw" means all parts, except the seeds, of the opium
2 poppy, after mowing.

3 (w) "Practitioner" means:

4 (1) A physician under chapter 18.71 RCW, a physician assistant
5 under chapter 18.71A RCW, an osteopathic physician and surgeon under
6 chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who
7 is certified by the optometry board under RCW 18.53.010 subject to any
8 limitations in RCW 18.53.010, a dentist under chapter 18.32 RCW, a
9 podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian
10 under chapter 18.92 RCW, a registered nurse, advanced registered nurse
11 practitioner, or licensed practical nurse under chapter 18.79 RCW, a
12 pharmacist under chapter 18.64 RCW or a scientific investigator under
13 this chapter, licensed, registered or otherwise permitted insofar as is
14 consistent with those licensing laws to distribute, dispense, conduct
15 research with respect to or administer a controlled substance in the
16 course of their professional practice or research in this state.

17 (2) A pharmacy, hospital or other institution licensed, registered,
18 or otherwise permitted to distribute, dispense, conduct research with
19 respect to or to administer a controlled substance in the course of
20 professional practice or research in this state.

21 (3) A physician licensed to practice medicine and surgery, a
22 physician licensed to practice osteopathic medicine and surgery, a
23 dentist licensed to practice dentistry, a podiatric physician and
24 surgeon licensed to practice podiatric medicine and surgery, or a
25 veterinarian licensed to practice veterinary medicine in any state of
26 the United States.

27 (x) "Prescription" means an order for controlled substances issued
28 by a practitioner duly authorized by law or rule in the state of
29 Washington to prescribe controlled substances within the scope of his
30 or her professional practice for a legitimate medical purpose.

31 (y) "Production" includes the manufacturing, planting, cultivating,
32 growing, or harvesting of a controlled substance.

33 (z) "Secretary" means the secretary of health or the secretary's
34 designee.

35 (aa) "State," unless the context otherwise requires, means a state
36 of the United States, the District of Columbia, the Commonwealth of
37 Puerto Rico, or a territory or insular possession subject to the
38 jurisdiction of the United States.

1 (bb) "Ultimate user" means an individual who lawfully possesses a
2 controlled substance for the individual's own use or for the use of a
3 member of the individual's household or for administering to an animal
4 owned by the individual or by a member of the individual's household.

5 (cc) "Electronic communication of prescription information" means
6 the communication of prescription information by computer, or the
7 transmission of an exact visual image of a prescription by facsimile,
8 or other electronic means for original prescription information or
9 prescription refill information for a Schedule III-V controlled
10 substance between an authorized practitioner and a pharmacy or the
11 transfer of prescription information for a controlled substance from
12 one pharmacy to another pharmacy.

13 NEW SECTION. **Sec. 5.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected."

17 On page 1, line 3 of the title, after "optometry;" strike the
18 remainder of the title and insert "and amending RCW 18.53.010,
19 18.53.140, 69.41.030, and 69.50.101."

EFFECT: This striking amendment substitutes the current language
with the exact language that passed the Senate last year, except
optometrists can inject epinephrine for anaphylactic shock.

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