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**SUBSTITUTE SENATE BILL 6237**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** Senate Health & Long-Term Care (originally sponsored by Senators Keiser, Conway, Kline, Frockt, and Becker)

READ FIRST TIME 01/26/12.

1       AN ACT Relating to creating a career pathway for medical  
2 assistants; amending RCW 18.135.030, 18.135.040, 18.135.060,  
3 18.135.070, 18.135.090, 18.135.110, 18.135.120, 18.120.020, 18.130.040,  
4 and 46.61.506; reenacting and amending RCW 18.135.020; adding new  
5 sections to chapter 18.135 RCW; creating a new section; and repealing  
6 RCW 18.135.010, 18.135.025, 18.135.050, 18.135.055, and 18.135.062.

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 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.135 RCW  
12 to read as follows:

13 (1) Medical assistants certified under this chapter have limited  
14 authority to perform certain delegated medical tasks related to  
15 administering basic first aid; collecting routine laboratory specimens;  
16 assisting with patient examinations or treatment; performing minor  
17 clinical procedures; operating office medical equipment; performing  
18 basic laboratory procedures; and administering medications by unit,  
19 single, or calculated dosage including vaccines.

20 (2) The secretary shall create in rule:

21 (a) Categories of medical assistants that may be authorized to  
22 perform the tasks in subsection (1) of this section. The categories  
23 must reflect an increasing level of skill and responsibility. The  
24 rules must also describe the training, experience, education, or  
25 examination requirements for each category; and

26 (b) Training, experience, education, or examination requirements  
27 for entry-level health care workers to transition, via a career ladder,  
28 to medical assistants or for medical assistants to transition into  
29 other health care professions pursuant to RCW 18.135.030(2) (c) and  
30 (d).

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

33 The definitions in this section apply throughout this chapter  
34 unless the context clearly requires otherwise.

35 (1) "Delegation" means direct authorization granted by a licensed  
36 health care practitioner to a (~~health care~~) medical assistant to

1 perform the functions authorized in this chapter which fall within the  
2 scope of practice of the delegator and which are not within the scope  
3 of practice of the delegatee.

4 ~~(2) ("Health care assistant" means an unlicensed person who~~  
5 ~~assists a licensed health care practitioner in providing health care to~~  
6 ~~patients pursuant to this chapter. However, persons trained by a~~  
7 ~~federally approved end stage renal disease facility who perform end-~~  
8 ~~stage renal dialysis in the home setting are exempt from certification~~  
9 ~~under this chapter.))~~ "Department" means the department of health.

10 (3) "Health care facility" means any hospital, hospice care center,  
11 licensed or certified health care facility, health maintenance  
12 organization regulated under chapter 48.46 RCW, federally qualified  
13 health maintenance organization, renal dialysis center or facility  
14 federally approved under 42 C.F.R. 405.2100, blood bank federally  
15 licensed under 21 C.F.R. 607, or clinical laboratory certified under 20  
16 C.F.R. 405.1301-16.

17 (4) "Health care practitioner" means:

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

19 (b) An osteopathic physician or surgeon licensed under chapter  
20 18.57 RCW; or

21 (c) Acting within the scope of their respective licensure, a  
22 podiatric physician and surgeon licensed under chapter 18.22 RCW, a  
23 registered nurse or advanced registered nurse practitioner licensed  
24 under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A  
25 RCW, a physician assistant licensed under chapter 18.71A RCW, or an  
26 osteopathic physician assistant licensed under chapter 18.57A RCW.

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

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

33 ~~((+6))~~ (7) "Supervision" means supervision of procedures permitted  
34 pursuant to this chapter by a health care practitioner who is  
35 physically present and is immediately available in the facility during  
36 the administration of injections or vaccines, as defined in this  
37 chapter, or certain drugs as provided in RCW 18.135.130, but need not  
38 be present during procedures to withdraw blood.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 18.135 RCW  
2 to read as follows:

3        (1) Beginning July 1, 2014, no persons may represent themselves as  
4 medical assistants unless certified as provided for in this chapter.  
5 Once certified, medical assistants may only practice in the category of  
6 medical assistant for which they are certified.    However, they may,  
7 under supervision of a health care professional, receive training for  
8 procedures in another category of medical assistant.

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

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

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

17        (b) Have satisfactorily completed a medical assistant program  
18 approved by the secretary;

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

21        (d) Demonstrate evidence of completing the education and training  
22 requirements for the category of medical assistant for which the person  
23 is seeking certification.

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

26        (1) The secretary may certify a person as a medical assistant  
27 without examination if the person is licensed or certified as a medical  
28 assistant in another jurisdiction and if, in the secretary's judgment,  
29 the requirements of that jurisdiction are equivalent or greater than  
30 those of Washington state.

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

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

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

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

12       (a) Adopt rules necessary to(~~(+~~  
13       ~~(a))~~) administer, implement, and enforce this chapter, including  
14 rules providing for the transition of health care assistants to medical  
15 assistants and ensuring that a health care assistant practicing before  
16 July 1, 2014, will be certified in the appropriate medical assistant  
17 category for that person's education and experience;

18       ~~(b) Establish (~~the minimum requirements necessary for a health~~~~  
19 ~~care facility or health care practitioner to certify a health care~~  
20 ~~assistant capable of performing the functions authorized in this~~  
21 ~~chapter; and~~

22       ~~(c) Establish))~~ a career ladder permitting upward career  
23 advancement for medical assistants. The career ladder must consist of  
24 categories of medical assistants with minimum requirements for each and  
25 every category of (~~health care~~) medical assistant, including minimum  
26 requirements for the entry-level category, education and experience  
27 requirements that are needed for medical assistants to advance to  
28 another category, on-the-job instruction and training, and the  
29 procedures medical assistants are able to assist with during training  
30 to assist them in advancing up the ladder;

31       (c) Establish requirements to assist entry-level health care  
32 workers in other fields, such as home care aides, to advance into a  
33 medical assistant position;

34       (d) As part of the career ladder in (b) of this subsection,  
35 establish education and experience requirements to assist medical  
36 assistants to move into other health care professions, including  
37 nursing professions, that would benefit from their experience and  
38 training;

1 (e) Establish forms necessary to administer this chapter, including  
2 forms medical assistants may use to document their education and  
3 experience;

4 (f) Issue a certificate to an applicant who has met the  
5 requirements for certification and deny a certificate to an applicant  
6 who does not meet the minimum qualifications;

7 (g) Hire clerical, administrative, and investigative staff as  
8 needed to implement this chapter and hire individuals, including those  
9 certified under this chapter, to serve as consultants as necessary to  
10 implement and administer this chapter;

11 (h) Maintain the official department record of all applicants and  
12 certificate holders;

13 (i) Conduct a hearing, under chapter 34.05 RCW, on an appeal of a  
14 denial of certification based on the applicant's failure to meet the  
15 minimum qualification for certification;

16 (j) Investigate alleged violations of this chapter and consumer  
17 complaints involving the practice of persons representing themselves as  
18 medical assistants;

19 (k) Issue subpoenas, statements of charges, statements of intent to  
20 deny certifications, and orders and delegate in writing to a designee  
21 the authority to issue subpoenas, statements of charges, and statement  
22 on intent to deny certifications;

23 (l) Conduct disciplinary proceedings, impose sanctions, and assess  
24 finances for violations of this chapter or any rules adopted under it in  
25 accordance with chapter 34.05 RCW;

26 (m) Set all certification, renewal, and late renewal fees;

27 (n) Set certification expiration dates and renewal periods for all  
28 certifications under this chapter; and

29 (o) Set minimum continuing education requirements.

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

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

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

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



1 license shall be physically present in the immediate area of a hospital  
2 or nursing home where the injection is administered. Sensitivity  
3 agents being administered intradermally or by the scratch method are  
4 excluded from this requirement.

5 (2) A (~~health-care~~) medical assistant trained by a federally  
6 approved end-stage renal disease facility may perform venipuncture for  
7 blood withdrawal, administration of oxygen as necessary by cannula or  
8 mask, venipuncture for placement of fistula needles, connect to  
9 vascular catheter for hemodialysis, intravenous administration of  
10 heparin and sodium chloride solutions as an integral part of dialysis  
11 treatment, and intradermal, subcutaneous, or topical administration of  
12 local anesthetics in conjunction with placement of fistula needles, and  
13 intraperitoneal administration of sterile electrolyte solutions and  
14 heparin for peritoneal dialysis: (a) In the center or health care  
15 facility if a registered nurse licensed under chapter 18.79 RCW is  
16 physically present and immediately available in such center or health  
17 care facility; or (b) in the patient's home if a physician and a  
18 registered nurse are available for consultation during the dialysis.

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

21 The licensing authority of health care facilities or the  
22 disciplining authority of the delegating or supervising health care  
23 practitioner shall investigate all complaints or allegations of  
24 (~~violations of proper certification of a health care assistant or~~)  
25 violations of delegation of authority or supervision. A substantiated  
26 violation shall constitute sufficient cause for disciplinary action by  
27 the licensing authority of a health care facility or the disciplining  
28 authority of the health care practitioner.

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

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

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

1 This chapter does not prohibit or restrict the performance of  
2 blood-drawing procedures by ((health-care)) medical assistants in the  
3 residences of research study participants when such procedures have  
4 been authorized by the institutional review board of a comprehensive  
5 cancer center or nonprofit degree-granting institution of higher  
6 education and are conducted under the general supervision of a  
7 physician.

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

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

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

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Applicant group" includes any health professional group or  
19 organization, any individual, or any other interested party which  
20 proposes that any health professional group not presently regulated be  
21 regulated or which proposes to substantially increase the scope of  
22 practice of the profession.

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

28 (3) "Grandfather clause" means a provision in a regulatory statute  
29 applicable to practitioners actively engaged in the regulated health  
30 profession prior to the effective date of the regulatory statute which  
31 exempts the practitioners from meeting the prerequisite qualifications  
32 set forth in the regulatory statute to perform prescribed occupational  
33 tasks.

34 (4) "Health professions" means and includes the following health  
35 and health-related licensed or regulated professions and occupations:  
36 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic

1 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;  
2 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;  
3 dispensing opticians under chapter 18.34 RCW; hearing instruments under  
4 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and  
5 funeral directing under chapter 18.39 RCW; midwifery under chapter  
6 18.50 RCW; nursing home administration under chapter 18.52 RCW;  
7 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter  
8 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and  
9 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine  
10 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter  
11 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses  
12 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;  
13 registered nurses under chapter 18.79 RCW; occupational therapists  
14 licensed under chapter 18.59 RCW; respiratory care practitioners  
15 licensed under chapter 18.89 RCW; veterinarians and veterinary  
16 technicians under chapter 18.92 RCW; (~~health care~~) medical assistants  
17 under chapter 18.135 RCW; massage practitioners under chapter 18.108  
18 RCW; East Asian medicine practitioners licensed under chapter 18.06  
19 RCW; persons registered under chapter 18.19 RCW; persons licensed as  
20 mental health counselors, marriage and family therapists, and social  
21 workers under chapter 18.225 RCW; dietitians and nutritionists  
22 certified by chapter 18.138 RCW; radiologic technicians under chapter  
23 18.84 RCW; and nursing assistants registered or certified under chapter  
24 18.88A RCW.

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

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

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

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

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

9 (10) "Public member" means an individual who is not, and never was,  
10 a member of the health profession being regulated or the spouse of a  
11 member, or an individual who does not have and never has had a material  
12 financial interest in either the rendering of the health professional  
13 service being regulated or an activity directly related to the  
14 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 regulates  
23 one or more professions, occupations, industries, businesses, or other  
24 endeavors in this state.

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

29 **Sec. 14.** RCW 18.130.040 and 2011 c 41 s 11 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 licensed  
33 under the chapters specified in this section. This chapter does not  
34 apply to any business or profession not licensed under the chapters  
35 specified in this section.

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

- 1 (i) Dispensing opticians licensed and designated apprentices under  
2 chapter 18.34 RCW;
- 3 (ii) Midwives licensed under chapter 18.50 RCW;
- 4 (iii) Ocularists licensed under chapter 18.55 RCW;
- 5 (iv) Massage operators and businesses licensed under chapter 18.108  
6 RCW;
- 7 (v) Dental hygienists licensed under chapter 18.29 RCW;
- 8 (vi) East Asian medicine practitioners licensed under chapter 18.06  
9 RCW;
- 10 (vii) Radiologic technologists certified and X-ray technicians  
11 registered under chapter 18.84 RCW;
- 12 (viii) Respiratory care practitioners licensed under chapter 18.89  
13 RCW;
- 14 (ix) Hypnotherapists and agency affiliated counselors registered  
15 and advisors and counselors certified under chapter 18.19 RCW;
- 16 (x) Persons licensed as mental health counselors, mental health  
17 counselor associates, marriage and family therapists, marriage and  
18 family therapist associates, social workers, social work associates--  
19 advanced, and social work associates--independent clinical under  
20 chapter 18.225 RCW;
- 21 (xi) Persons registered as nursing pool operators under chapter  
22 18.52C RCW;
- 23 (xii) Nursing assistants registered or certified under chapter  
24 18.88A RCW;
- 25 (xiii) (~~Health-care~~) Medical assistants certified under chapter  
26 18.135 RCW;
- 27 (xiv) Dietitians and nutritionists certified under chapter 18.138  
28 RCW;
- 29 (xv) Chemical dependency professionals and chemical dependency  
30 professional trainees certified under chapter 18.205 RCW;
- 31 (xvi) Sex offender treatment providers and certified affiliate sex  
32 offender treatment providers certified under chapter 18.155 RCW;
- 33 (xvii) Persons licensed and certified under chapter 18.73 RCW or  
34 RCW 18.71.205;
- 35 (xviii) Denturists licensed under chapter 18.30 RCW;
- 36 (xix) Orthotists and prosthetists licensed under chapter 18.200  
37 RCW;
- 38 (xx) Surgical technologists registered under chapter 18.215 RCW;

1 (xxi) Recreational therapists (~~(under chapter 18.230 RCW)~~) under  
2 chapter 18.230 RCW;

3 (xxii) Animal massage practitioners certified under chapter 18.240  
4 RCW;

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

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

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

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

10 (i) The podiatric medical board as established in chapter 18.22  
11 RCW;

12 (ii) The chiropractic quality assurance commission as established  
13 in chapter 18.25 RCW;

14 (iii) The dental quality assurance commission as established in  
15 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and  
16 licenses and registrations issued under chapter 18.260 RCW;

17 (iv) The board of hearing and speech as established in chapter  
18 18.35 RCW;

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

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

23 (vii) The board of osteopathic medicine and surgery as established  
24 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
25 18.57A RCW;

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

28 (ix) The medical quality assurance commission as established in  
29 chapter 18.71 RCW governing licenses and registrations issued under  
30 chapters 18.71 and 18.71A RCW;

31 (x) The board of physical therapy as established in chapter 18.74  
32 RCW;

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

35 (xii) The nursing care quality assurance commission as established  
36 in chapter 18.79 RCW governing licenses and registrations issued under  
37 that chapter;

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

3 (xiv) The veterinary board of governors as established in chapter  
4 18.92 RCW; and

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

6 (3) In addition to the authority to discipline license holders, the  
7 disciplining authority has the authority to grant or deny licenses.  
8 The disciplining authority may also grant a license subject to  
9 conditions.

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

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

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

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

28 (3) Analysis of the person's blood or breath to be considered valid  
29 under the provisions of this section or RCW 46.61.502 or 46.61.504  
30 shall have been performed according to methods approved by the state  
31 toxicologist and by an individual possessing a valid permit issued by  
32 the state toxicologist for this purpose. The state toxicologist is  
33 directed to approve satisfactory techniques or methods, to supervise  
34 the examination of individuals to ascertain their qualifications and  
35 competence to conduct such analyses, and to issue permits which shall  
36 be subject to termination or revocation at the discretion of the state  
37 toxicologist.

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

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

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

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

13 (iv) Prior to the start of the test, the temperature of any liquid  
14 simulator solution utilized as an external standard, as measured by a  
15 thermometer approved of by the state toxicologist was thirty-four  
16 degrees centigrade plus or minus 0.3 degrees centigrade;

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

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

21 (vii) The result of the test of the liquid simulator solution  
22 external standard or dry gas external standard result did lie between  
23 .072 to .088 inclusive; and

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

25 (b) For purposes of this section, "prima facie evidence" is  
26 evidence of sufficient circumstances that would support a logical and  
27 reasonable inference of the facts sought to be proved. In assessing  
28 whether there is sufficient evidence of the foundational facts, the  
29 court or administrative tribunal is to assume the truth of the  
30 prosecution's or department's evidence and all reasonable inferences  
31 from it in a light most favorable to the prosecution or department.

32 (c) Nothing in this section shall be deemed to prevent the subject  
33 of the test from challenging the reliability or accuracy of the test,  
34 the reliability or functioning of the instrument, or any maintenance  
35 procedures. Such challenges, however, shall not preclude the  
36 admissibility of the test once the prosecution or department has made  
37 a prima facie showing of the requirements contained in (a) of this

1 subsection. Instead, such challenges may be considered by the trier of  
2 fact in determining what weight to give to the test result.

3 (5) When a blood test is administered under the provisions of RCW  
4 46.20.308, the withdrawal of blood for the purpose of determining its  
5 alcoholic or drug content may be performed only by a physician, a  
6 registered nurse, a licensed practical nurse, a nursing assistant as  
7 defined in chapter 18.88A RCW, a physician assistant as defined in  
8 chapter 18.71A RCW, a first responder as defined in chapter 18.73 RCW,  
9 an emergency medical technician as defined in chapter 18.73 RCW, a  
10 ((health-care)) medical assistant as defined in chapter 18.135 RCW, or  
11 any technician trained in withdrawing blood. This limitation shall not  
12 apply to the taking of breath specimens.

13 (6) The person tested may have a physician, or a qualified  
14 technician, chemist, registered nurse, or other qualified person of his  
15 or her own choosing administer one or more tests in addition to any  
16 administered at the direction of a law enforcement officer. The test  
17 will be admissible if the person establishes the general acceptability  
18 of the testing technique or method. The failure or inability to obtain  
19 an additional test by a person shall not preclude the admission of  
20 evidence relating to the test or tests taken at the direction of a law  
21 enforcement officer.

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

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

28 (1) RCW 18.135.010 (Practices authorized) and 2009 c 43 s 2, 2008  
29 c 58 s 1, & 1984 c 281 s 1;

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

31 (3) RCW 18.135.050 (Certification by health care facility or  
32 practitioner--Roster--Recertification) and 1996 c 191 s 82, 1991 c 3 s  
33 274, & 1984 c 281 s 5;

34 (4) RCW 18.135.055 (Registering an initial or continuing  
35 certification--Fees) and 1996 c 191 s 83, 1991 c 3 s 275, & 1985 c 117  
36 s 1; and

1 (5) RCW 18.135.062 (Renal dialysis training task force--Development  
2 of core competencies) and 2001 c 22 s 4.

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