

E2SHB 1614 - S AMD TO S AMD (S-2671.2/17) **260**

By Senator Van De Wege

ADOPTED 04/20/2017

1 On page 1, after line 2 of the amendment, insert the following:

2 "NEW SECTION. **Sec. 1.** The legislature finds that there is
3 significant value in diligently combating the crime of driving under
4 the influence and promoting the safety of all persons using our
5 public roadways. The legislature also finds that phlebotomy, also
6 known as venipuncture, is a health care procedure that involves
7 removing blood from the body by making an incision in a vein with a
8 needle. The legislature finds further that the use of forensic
9 phlebotomy can be a useful tool when investigating whether a person
10 may be impaired while operating a motor vehicle. The legislature also
11 finds, however, that despite the value of forensic phlebotomy, both
12 motorists and law enforcement officers must be protected from the
13 potentially significant health risks inherent in allowing the
14 practice of phlebotomy without adequate and appropriate training, as
15 defined by the department of health."

16 Renumber the remaining sections consecutively and correct any
17 internal references accordingly.

18 On page 30, line 34 of the amendment, after "phlebotomist" insert
19 "certified under chapter 18.360 RCW"

20 On page 31, line 4 of the amendment, after "phlebotomist" insert
21 "certified under chapter 18.360 RCW"

22 On page 32, line 3 of the amendment, after "phlebotomist" insert
23 "certified under chapter 18.360 RCW"

24 On page 32, at the beginning of line 28 of the amendment, after
25 "certified" strike "or" and insert "~~((or))~~,"

26 On page 32, line 28 of the amendment, after "assistant-
27 phlebotomist" insert ", or forensic phlebotomist"

1 On page 33, line 3 of the amendment, after "assistant-certified"
2 strike "or" and insert "~~(or)~~."

3 On page 33, line 3 of the amendment, after "assistant-
4 phlebotomist" insert ", or forensic phlebotomist"

5 On page 33, line 20 of the amendment, after "assistant-certified"
6 strike "or" and insert "~~(or)~~."

7 On page 33, line 20 of the amendment, after "assistant-
8 phlebotomist" insert ", or forensic phlebotomist"

9 On page 33, beginning on line 28 of the amendment, strike all of
10 section 9

11 Renumber the remaining sections consecutively and correct any
12 internal references accordingly.

13 On page 36, after line 36 of the amendment, insert the following:

14 **"Sec. 14.** RCW 18.360.010 and 2016 c 124 s 1 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) "Administer" means the retrieval of medication, and its
19 application to a patient, as authorized in RCW 18.360.050.

20 (2) "Delegation" means direct authorization granted by a licensed
21 health care practitioner to a medical assistant to perform the
22 functions authorized in this chapter which fall within the scope of
23 practice of the health care provider and the training and experience
24 of the medical assistant.

25 (3) "Department" means the department of health.

26 (4) "Health care practitioner" means:

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

28 (b) An osteopathic physician and surgeon licensed under chapter
29 18.57 RCW; or

30 (c) Acting within the scope of their respective licensure, a
31 podiatric physician and surgeon licensed under chapter 18.22 RCW, a
32 registered nurse or advanced registered nurse practitioner licensed
33 under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A
34 RCW, a physician assistant licensed under chapter 18.71A RCW, an

1 osteopathic physician assistant licensed under chapter 18.57A RCW, or
2 an optometrist licensed under chapter 18.53 RCW.

3 (5) "Medical assistant-certified" means a person certified under
4 RCW 18.360.040 who assists a health care practitioner with patient
5 care, executes administrative and clinical procedures, and performs
6 functions as provided in RCW 18.360.050 under the supervision of the
7 health care practitioner.

8 (6) "Medical assistant-hemodialysis technician" means a person
9 certified under RCW 18.360.040 who performs hemodialysis and other
10 functions pursuant to RCW 18.360.050 under the supervision of a
11 health care practitioner.

12 (7) "Medical assistant-phlebotomist" means a person certified
13 under RCW 18.360.040 who performs capillary, venous, and arterial
14 invasive procedures for blood withdrawal and other functions pursuant
15 to RCW 18.360.050 under the supervision of a health care
16 practitioner.

17 (8) "Medical assistant-registered" means a person registered
18 under RCW 18.360.040 who, pursuant to an endorsement by a health care
19 practitioner, clinic, or group practice, assists a health care
20 practitioner with patient care, executes administrative and clinical
21 procedures, and performs functions as provided in RCW 18.360.050
22 under the supervision of the health care practitioner.

23 (9) "Secretary" means the secretary of the department of health.

24 (10) "Supervision" means supervision of procedures permitted
25 pursuant to this chapter by a health care practitioner who is
26 physically present and is immediately available in the facility. The
27 health care practitioner does not need to be present during
28 procedures to withdraw blood, but must be immediately available.

29 (11) "Forensic phlebotomist" means a police officer, law
30 enforcement officer, or employee of a correctional facility or
31 detention facility, who is certified under this chapter and meets any
32 additional training and proficiency standards of his or her employer
33 to collect a venous blood sample for forensic testing pursuant to a
34 search warrant, a waiver of the warrant requirement, or exigent
35 circumstances.

36 **Sec. 15.** RCW 18.360.020 and 2012 c 153 s 3 are each amended to
37 read as follows:

38 (1) No person may practice as a medical assistant-certified,
39 medical assistant-hemodialysis technician, ((~~or~~)) medical assistant-

1 phlebotomist, or forensic phlebotomist unless he or she is certified
2 under RCW 18.360.040.

3 (2) No person may practice as a medical assistant-registered
4 unless he or she is registered under RCW 18.360.040.

5 **Sec. 16.** RCW 18.360.030 and 2012 c 153 s 4 are each amended to
6 read as follows:

7 (1) The secretary shall adopt rules specifying the minimum
8 qualifications for a medical assistant-certified, medical assistant-
9 hemodialysis technician, (~~and~~) medical assistant-phlebotomist, and
10 forensic phlebotomist.

11 (a) The qualifications for a medical assistant-hemodialysis
12 technician must be equivalent to the qualifications for hemodialysis
13 technicians regulated pursuant to chapter 18.135 RCW as of January 1,
14 2012.

15 (b) The qualifications for a forensic phlebotomist must include
16 training consistent with the occupational safety and health
17 administration guidelines and must include between twenty and thirty
18 hours of work in a clinical setting with the completion of more than
19 one hundred successful venipunctures. The secretary may not require
20 more than forty hours of classroom training for initial training,
21 which may include online preclass homework.

22 (2) The secretary shall adopt rules that establish the minimum
23 requirements necessary for a health care practitioner, clinic, or
24 group practice to endorse a medical assistant as qualified to perform
25 the duties authorized by this chapter and be able to file an
26 attestation of that endorsement with the department.

27 (3) The medical quality assurance commission, the board of
28 osteopathic medicine and surgery, the podiatric medical board, the
29 nursing care quality assurance commission, the board of naturopathy,
30 and the optometry board shall each review and identify other
31 specialty assistive personnel not included in this chapter and the
32 tasks they perform. The department of health shall compile the
33 information from each disciplining authority listed in this
34 subsection and submit the compiled information to the legislature no
35 later than December 15, 2012.

36 **Sec. 17.** RCW 18.360.040 and 2013 c 128 s 2 are each amended to
37 read as follows:

1 (1)(a) The secretary shall issue a certification as a medical
2 assistant-certified to any person who has satisfactorily completed a
3 medical assistant training program approved by the secretary, passed
4 an examination approved by the secretary, and met any additional
5 qualifications established under RCW 18.360.030.

6 (b) The secretary shall issue an interim certification to any
7 person who has met all of the qualifications in (a) of this
8 subsection, except for the passage of the examination. A person
9 holding an interim permit possesses the full scope of practice of a
10 medical assistant-certified. The interim permit expires upon passage
11 of the examination or after one year, whichever occurs first, and may
12 not be renewed.

13 (2) The secretary shall issue a certification as a medical
14 assistant-hemodialysis technician to any person who meets the
15 qualifications for a medical assistant-hemodialysis technician
16 established under RCW 18.360.030.

17 (3) The secretary shall issue a certification as a medical
18 assistant-phlebotomist to any person who meets the qualifications for
19 a medical assistant-phlebotomist established under RCW 18.360.030.

20 (4) The secretary shall issue a certification as a forensic
21 phlebotomist to any person who meets the qualifications for a
22 forensic phlebotomist established under RCW 18.360.030.

23 (5)(a) The secretary shall issue a registration as a medical
24 assistant-registered to any person who has a current endorsement from
25 a health care practitioner, clinic, or group practice.

26 (b) In order to be endorsed under this subsection (~~((+4))~~) (5), a
27 person must:

28 (i) Be endorsed by a health care practitioner, clinic, or group
29 practice that meets the qualifications established under RCW
30 18.360.030; and

31 (ii) Have a current attestation of his or her endorsement to
32 perform specific medical tasks signed by a supervising health care
33 practitioner filed with the department. A medical assistant-
34 registered may only perform the medical tasks listed in his or her
35 current attestation of endorsement.

36 (c) A registration based on an endorsement by a health care
37 practitioner, clinic, or group practice is not transferable to
38 another health care practitioner, clinic, or group practice.

39 (d) An applicant for registration as a medical assistant-
40 registered who applies to the department within seven days of

1 employment by the endorsing health care practitioner, clinic, or
2 group practice may work as a medical assistant-registered for up to
3 sixty days while the application is processed. The applicant must
4 stop working on the sixtieth day of employment if the registration
5 has not been granted for any reason.

6 ~~((+5))~~ (6) A certification issued under subsections (1) through
7 (3) of this section is transferable between different practice
8 settings. A certification under subsection (4) of this section is
9 transferable between law enforcement agencies.

10 **Sec. 18.** RCW 18.130.040 and 2016 c 41 s 18 are each amended to
11 read as follows:

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

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

19 (i) Dispensing opticians licensed and designated apprentices
20 under chapter 18.34 RCW;

21 (ii) Midwives licensed under chapter 18.50 RCW;

22 (iii) Ocularists licensed under chapter 18.55 RCW;

23 (iv) Massage therapists and businesses licensed under chapter
24 18.108 RCW;

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

26 (vi) East Asian medicine practitioners licensed under chapter
27 18.06 RCW;

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

30 (viii) Respiratory care practitioners licensed under chapter
31 18.89 RCW;

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

34 (x) Persons licensed as mental health counselors, mental health
35 counselor associates, marriage and family therapists, marriage and
36 family therapist associates, social workers, social work associates—
37 advanced, and social work associates—independent clinical under
38 chapter 18.225 RCW;

1 (xi) Persons registered as nursing pool operators under chapter
2 18.52C RCW;

3 (xii) Nursing assistants registered or certified or medication
4 assistants endorsed under chapter 18.88A RCW;

5 (xiii) Dietitians and nutritionists certified under chapter
6 18.138 RCW;

7 (xiv) Chemical dependency professionals and chemical dependency
8 professional trainees certified under chapter 18.205 RCW;

9 (xv) Sex offender treatment providers and certified affiliate sex
10 offender treatment providers certified under chapter 18.155 RCW;

11 (xvi) Persons licensed and certified under chapter 18.73 RCW or
12 RCW 18.71.205;

13 (xvii) Orthotists and prosthetists licensed under chapter 18.200
14 RCW;

15 (xviii) Surgical technologists registered under chapter 18.215
16 RCW;

17 (xix) Recreational therapists under chapter 18.230 RCW;

18 (xx) Animal massage therapists certified under chapter 18.240
19 RCW;

20 (xxi) Athletic trainers licensed under chapter 18.250 RCW;

21 (xxii) Home care aides certified under chapter 18.88B RCW;

22 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;

23 (xxiv) Reflexologists certified under chapter 18.108 RCW;

24 (xxv) Medical assistants-certified, medical assistants-
25 hemodialysis technician, medical assistants-phlebotomist, forensic
26 phlebotomist, and medical assistants-registered certified and
27 registered under chapter 18.360 RCW; and

28 (xxvi) Behavior analysts, assistant behavior analysts, and
29 behavior technicians under chapter 18.380 RCW.

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

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

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

36 (iii) The dental quality assurance commission as established in
37 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
38 licenses and registrations issued under chapter 18.260 RCW, and
39 certifications issued under chapter 18.350 RCW;

- 1 (iv) The board of hearing and speech as established in chapter
2 18.35 RCW;
- 3 (v) The board of examiners for nursing home administrators as
4 established in chapter 18.52 RCW;
- 5 (vi) The optometry board as established in chapter 18.54 RCW
6 governing licenses issued under chapter 18.53 RCW;
- 7 (vii) The board of osteopathic medicine and surgery as
8 established in chapter 18.57 RCW governing licenses issued under
9 chapters 18.57 and 18.57A RCW;
- 10 (viii) The pharmacy quality assurance commission as established
11 in chapter 18.64 RCW governing licenses issued under chapters 18.64
12 and 18.64A RCW;
- 13 (ix) The medical quality assurance commission as established in
14 chapter 18.71 RCW governing licenses and registrations issued under
15 chapters 18.71 and 18.71A RCW;
- 16 (x) The board of physical therapy as established in chapter 18.74
17 RCW;
- 18 (xi) The board of occupational therapy practice as established in
19 chapter 18.59 RCW;
- 20 (xii) The nursing care quality assurance commission as
21 established in chapter 18.79 RCW governing licenses and registrations
22 issued under that chapter;
- 23 (xiii) The examining board of psychology and its disciplinary
24 committee as established in chapter 18.83 RCW;
- 25 (xiv) The veterinary board of governors as established in chapter
26 18.92 RCW;
- 27 (xv) The board of naturopathy established in chapter 18.36A RCW;
28 and
- 29 (xvi) The board of denturists established in chapter 18.30 RCW.
- 30 (3) In addition to the authority to discipline license holders,
31 the disciplining authority has the authority to grant or deny
32 licenses. The disciplining authority may also grant a license subject
33 to conditions.
- 34 (4) All disciplining authorities shall adopt procedures to ensure
35 substantially consistent application of this chapter, the uniform
36 disciplinary act, among the disciplining authorities listed in
37 subsection (2) of this section.

38 **Sec. 19.** RCW 18.120.020 and 2016 c 41 s 17 are each reenacted
39 and amended to read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

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

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

20 (4) "Health professions" means and includes the following health
21 and health-related licensed or regulated professions and occupations:
22 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
23 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
24 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
25 dental anesthesia assistants under chapter 18.350 RCW; dispensing
26 opticians under chapter 18.34 RCW; hearing instruments under chapter
27 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
28 funeral directing under chapter 18.39 RCW; midwifery under chapter
29 18.50 RCW; nursing home administration under chapter 18.52 RCW;
30 optometry under chapters 18.53 and 18.54 RCW; ocularists under
31 chapter 18.55 RCW; osteopathic medicine and surgery under chapters
32 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW;
33 medicine under chapters 18.71 and 18.71A RCW; emergency medicine
34 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
35 practical nurses under chapter 18.79 RCW; psychologists under chapter
36 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
37 therapists licensed under chapter 18.59 RCW; respiratory care
38 practitioners licensed under chapter 18.89 RCW; veterinarians and
39 veterinary technicians under chapter 18.92 RCW; massage therapists
40 under chapter 18.108 RCW; East Asian medicine practitioners licensed

1 under chapter 18.06 RCW; persons registered under chapter 18.19 RCW;
2 persons licensed as mental health counselors, marriage and family
3 therapists, and social workers under chapter 18.225 RCW; dietitians
4 and nutritionists certified by chapter 18.138 RCW; radiologic
5 technicians under chapter 18.84 RCW; nursing assistants registered or
6 certified under chapter 18.88A RCW; reflexologists certified under
7 chapter 18.108 RCW; medical assistants-certified, medical assistants-
8 hemodialysis technician, medical assistants-phlebotomist, forensic
9 phlebotomist, and medical assistants-registered certified and
10 registered under chapter 18.360 RCW; and licensed behavior analysts,
11 licensed assistant behavior analysts, and certified behavior
12 technicians under chapter 18.380 RCW.

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

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

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

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

30 (9) "Professional license" means an individual, nontransferable
31 authorization to carry on a health activity based on qualifications
32 which include: (a) Graduation from an accredited or approved program,
33 and (b) acceptable performance on a qualifying examination or series
34 of examinations.

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

1 (11) "Registration" means the formal notification which, prior to
2 rendering services, a practitioner shall submit to a state agency
3 setting forth the name and address of the practitioner; the location,
4 nature and operation of the health activity to be practiced; and, if
5 required by the regulatory entity, a description of the service to be
6 provided.

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

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

15 NEW SECTION. **Sec. 20.** Sections 18 and 19 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and take effect July 1, 2017."

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By Senator Van De Wege

ADOPTED 04/20/2017

19 On page 37, at the beginning of line 4 of the title amendment,
20 strike all material through "RCW" on line 5 and insert "46.61.5054,
21 18.360.010, 18.360.020, 18.360.030, 18.360.040, and 18.130.040;
22 reenacting and amending RCW 9.96.060, 10.31.100, 46.61.5055, and
23 18.120.020; creating a new section; providing an effective date; and
24 declaring an emergency"

EFFECT: (1) Requires the Department of Health, rather than individual local law enforcement agencies, establish the training and proficiency standards for forensic phlebotomists. The training may not exceed 40 hours of classroom work and must include between 20-30 hours in a clinical setting with the completion of more than 100 successful venipunctures.

(2) Adds forensic phlebotomists to the chapter regulating and certifying medical assistant-phlebotomists and puts them under the jurisdiction of the Uniform Disciplinary Act.

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