

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1536

Chapter 334, Laws of 1997

55th Legislature
1997 Regular Session

RESPIRATORY CARE PRACTITIONERS--LICENSURE

EFFECTIVE DATE: Sections 5, 9, & 10 become effective 7/1/97;
sections 1 through 4, 6 through 8, and 11 through 15 become
effective 7/1/98.

Passed by the House April 19, 1997
Yea 91 Nays 1

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of
the House of Representatives of the
State of Washington, do hereby certify
that the attached is **SUBSTITUTE HOUSE
BILL 1536** as passed by the House of
Representatives and the Senate on the
dates hereon set forth.

Passed by the Senate April 10, 1997
Yea 47 Nays 0

BRAD OWEN
President of the Senate

TIMOTHY A. MARTIN

Chief Clerk

Approved May 13, 1997

FILED

May 13, 1997 - 9:13 a.m.

GARY LOCKE
Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1536

Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Backlund, Cody and Dyer)

Read first time 03/05/97.

1 AN ACT Relating to respiratory care; amending RCW 18.89.010,
2 18.89.020, 18.89.040, 18.89.050, 18.89.060, 18.89.080, 18.89.090,
3 18.89.110, 18.89.120, 18.89.140, and 18.120.020; reenacting and
4 amending RCW 18.130.040; adding new sections to chapter 18.89 RCW;
5 repealing RCW 18.89.130 and 18.89.900; providing effective dates; and
6 declaring an emergency.

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

8 **Sec. 1.** RCW 18.89.010 and 1987 c 415 s 1 are each amended to read
9 as follows:

10 The legislature finds that ((it is necessary to regulate the
11 practice of respiratory care at the level of certification)) in order
12 to ((protect the public health and safety)) safeguard life, health, and
13 to promote public welfare, a person practicing or offering to practice
14 respiratory care as a respiratory care practitioner in this state shall
15 be required to submit evidence that he or she is qualified to practice,
16 and shall be licensed as provided. The settings for these services may
17 include, health facilities licensed in this state, clinics, home care,
18 home health agencies, physicians' offices, and public or community
19 health services. Nothing in this chapter shall be construed to require

1 that individual or group policies or contracts of an insurance carrier,
2 health care service contractor, or health maintenance organization
3 provide benefits or coverage for services and supplies provided by a
4 person certified under this chapter.

5 **NEW SECTION.** **Sec. 2.** A new section is added to chapter 18.89 RCW
6 to read as follows:

7 After the effective date of this act, it shall be unlawful for a
8 person to practice or to offer to practice as a respiratory care
9 practitioner in this state or to use a title, sign, or device to
10 indicate that such a person is practicing as a respiratory care
11 practitioner unless the person has been duly licensed and registered
12 under the provisions of this chapter.

13 **Sec. 3.** RCW 18.89.020 and 1994 sp.s. c 9 s 511 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

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

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

20 (3) "Respiratory care practitioner" means an individual
21 ((certified)) licensed under this chapter.

22 (4) "Physician" means an individual licensed under chapter 18.57 or
23 18.71 RCW.

24 ((5) "Rural hospital" means a hospital located anywhere in the
25 state except the following areas:

26 (a) The entire counties of Snohomish (including Camano Island),
27 King, Kitsap, Pierce, Thurston, Clark, and Spokane;

28 (b) Areas within a twenty-mile radius of an urban area with a
29 population exceeding thirty thousand persons; and

30 (c) Those cities or city clusters located in rural counties but
31 which for all practical purposes are urban. These areas are
32 Bellingham, Aberdeen Hoquiam, Longview Kelso, Wenatchee, Yakima,
33 Sunnyside, Richland Kennewick Pasco, and Walla Walla.))

34 **Sec. 4.** RCW 18.89.040 and 1994 sp.s. c 9 s 716 are each amended to
35 read as follows:

1 (1) A respiratory care practitioner ((certified)) licensed under
2 this chapter is employed in the treatment, management, diagnostic
3 testing, rehabilitation, and care of patients with deficiencies and
4 abnormalities which affect the cardiopulmonary system and associated
5 aspects of other systems, and is under the direct order and under the
6 qualified medical direction of a physician. The practice of
7 respiratory care includes((, but is not limited to)):

8 ((+1)) (a) The use and administration of prescribed medical gases,
9 exclusive of general anesthesia;

10 ((+2)) (b) The use of air and oxygen administering apparatus;

11 ((+3)) (c) The use of humidification and aerosols;

12 ((+4)) (d) The administration, to the extent of training, as
13 determined by the secretary, of prescribed pharmacologic agents related
14 to respiratory care;

15 ((+5)) (e) The use of mechanical ((or)) ventilatory, hyperbaric,
16 and physiological (ventilatory)) support;

17 ((+6)) (f) Postural drainage, chest percussion, and vibration;

18 ((+7)) (g) Bronchopulmonary hygiene;

19 ((+8)) (h) Cardiopulmonary resuscitation as it pertains to
20 ((establishing airways and external cardiac compression)) advanced
21 cardiac life support or pediatric advanced life support guidelines;

22 ((+9)) (i) The maintenance of natural and artificial airways and
23 insertion, without cutting tissues, of artificial airways, as
24 ((ordered)) prescribed by ((the attending)) a physician;

25 ((+10)) (j) Diagnostic and monitoring techniques such as the
26 collection and measurement of cardiorespiratory specimens, volumes,
27 pressures, and flows; ((and

28 ((11) The drawing and analyzing of)) (k) The insertion of devices to
29 draw, analyze, infuse, or monitor pressure in arterial, capillary,
30 ((and mixed)) or venous blood (specimens)) as ((ordered)) prescribed
31 by ((the attending)) a physician or an advanced registered nurse
32 practitioner as authorized by the nursing care quality assurance
33 commission under chapter 18.79 RCW; and

34 (1) Diagnostic monitoring of and therapeutic interventions for
35 desaturation, ventilatory patterns, and related sleep abnormalities to
36 aid the physician in diagnosis.

37 (2) Nothing in this chapter prohibits or restricts:

38 (a) The practice of a profession by individuals who are licensed
39 under other laws of this state who are performing services within their

1 authorized scope of practice, that may overlap the services provided by
2 respiratory care practitioners;

3 (b) The practice of respiratory care by an individual employed by
4 the government of the United States while the individual is engaged in
5 the performance of duties prescribed for him or her by the laws and
6 rules of the United States;

7 (c) The practice of respiratory care by a person pursuing a
8 supervised course of study leading to a degree or certificate in
9 respiratory care as a part of an accredited and approved educational
10 program, if the person is designated by a title that clearly indicates
11 his or her status as a student or trainee and limited to the extent of
12 demonstrated proficiency of completed curriculum, and under direct
13 supervision;

14 (d) The use of the title "respiratory care practitioner" by
15 registered nurses authorized under chapter 18.79 RCW; or

16 (e) The practice without compensation of respiratory care of a
17 family member.

18 Nothing in this chapter shall be construed to require that
19 individual or group policies or contracts of an insurance carrier,
20 health care service contractor, or health maintenance organization
21 provide benefits or coverage for services and supplies provided by a
22 person licensed under this chapter.

23 **Sec. 5.** RCW 18.89.050 and 1994 sp.s. c 9 s 512 are each amended to
24 read as follows:

25 (1) In addition to any other authority provided by law, the
26 secretary may:

27 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to
28 implement this chapter;

29 (b) Set all ((certification)) license, examination, and renewal
30 fees in accordance with RCW 43.70.250;

31 (c) Establish forms and procedures necessary to administer this
32 chapter;

33 (d) Issue a ((certificate)) license to any applicant who has met
34 the education, training, and examination requirements for
35 ((certification)) licensure;

36 (e) Hire clerical, administrative, and investigative staff as
37 needed to implement this chapter and hire individuals ((certified))

1 licensed under this chapter to serve as examiners for any practical
2 examinations;

3 (f) Approve those schools from which graduation will be accepted as
4 proof of an applicant's eligibility to take the ((certification))
5 licensure examination, specifically requiring that applicants must have
6 completed programs with two-year curriculum;

7 (g) Prepare, grade, and administer, or determine the nature of, and
8 supervise the grading and administration of, examinations for
9 applicants for ((certification)) licensure;

10 (h) Determine whether alternative methods of training are
11 equivalent to formal education and establish forms, procedures, and
12 criteria for evaluation of an applicant's alternative training to
13 determine the applicant's eligibility to take the examination;

14 (i) Determine which states have legal credentialing requirements
15 equivalent to those of this state and issue ((certificates)) licenses
16 to individuals legally credentialed in those states without
17 examination;

18 (j) Define and approve any experience requirement for
19 ((certification)) licensure; and

20 (k) Appoint members of the profession to serve in an ad hoc
21 advisory capacity to the secretary in carrying out this chapter. The
22 members will serve for designated times and provide advice on matters
23 specifically identified and requested by the secretary. The members
24 shall be compensated in accordance with RCW 43.03.220 and reimbursed
25 for travel expenses under RCW 43.03.040 and 43.03.060.

26 (2) The provisions of chapter 18.130 RCW shall govern the issuance
27 and denial of ((certificates, uncertified)) licenses, unlicensed
28 practice, and the disciplining of persons ((certified)) licensed under
29 this chapter. The secretary shall be the disciplining authority under
30 this chapter.

31 **Sec. 6.** RCW 18.89.060 and 1991 c 3 s 229 are each amended to read
32 as follows:

33 The secretary shall keep an official record of all proceedings, a
34 part of which record shall consist of a register of all applicants for
35 ((certification)) licensure under this chapter, with the result of each
36 application.

1 **Sec. 7.** RCW 18.89.080 and 1994 sp.s. c 9 s 513 are each amended to
2 read as follows:

3 The secretary, ad hoc committee members, or individuals acting on
4 their behalf are immune from suit in any civil action based on any
5 ((certification)) licensure or disciplinary proceedings, or other
6 official acts performed in the course of their duties.

7 **Sec. 8.** RCW 18.89.090 and 1991 c 3 s 232 are each amended to read
8 as follows:

9 (1) The secretary shall issue a ((certificate)) license to any
10 applicant who demonstrates to the secretary's satisfaction that the
11 following requirements have been met:

12 ((+1)) (a) Graduation from a school approved by the secretary or
13 successful completion of alternate training which meets the criteria
14 established by the secretary;

15 ((+2)) (b) Successful completion of an examination administered or
16 approved by the secretary;

17 ((+3)) (c) Successful completion of any experience requirement
18 established by the secretary;

19 ((+4)) (d) Good moral character.

20 In addition, applicants shall be subject to the grounds for denial
21 or issuance of a conditional ((certificate)) license under chapter
22 18.130 RCW.

23 (2) A person who meets the qualifications to be admitted to the
24 examination for ((certification)) licensure as a respiratory care
25 practitioner may practice as a respiratory care practitioner under the
26 supervision of a respiratory care practitioner ((certified)) licensed
27 under this chapter between the date of filing an application for
28 ((certification)) licensure and the announcement of the results of the
29 next succeeding examination for ((certification)) licensure if that
30 person applies for and takes the first examination for which he or she
31 is eligible.

32 (3) A person certified as a respiratory care practitioner in good
33 standing on the effective date of this act, who applies within one year
34 of the effective date of this act, may be licensed without having
35 completed the two-year curriculum set forth in RCW 18.89.050(1)(f), and
36 without having to retake an examination under subsection (1)(b) of this
37 section.

1 (4) The secretary shall establish by rule what constitutes adequate
2 proof of meeting the criteria.

3 **Sec. 9.** RCW 18.89.110 and 1996 c 191 s 76 are each amended to read
4 as follows:

5 (1) The date and location of the examination shall be established
6 by the secretary. Applicants who have been found by the secretary to
7 meet the other requirements for ((certification)) licensure shall be
8 scheduled for the next examination following the filing of the
9 application. However, the applicant shall not be scheduled for any
10 examination taking place sooner than sixty days after the application
11 is filed.

12 (2) The secretary shall examine each applicant, by means determined
13 most effective, on subjects appropriate to the scope of practice. Such
14 examinations shall be limited to the purpose of determining whether the
15 applicant possesses the minimum skill and knowledge necessary to
16 practice competently, and shall meet generally accepted standards of
17 fairness and validity for ((certification)) licensure examinations.

18 (3) All examinations shall be conducted by the secretary, and all
19 grading of the examinations shall be under fair and wholly impartial
20 methods.

21 (4) Any applicant who fails to make the required grade in the first
22 examination is entitled to take up to three subsequent examinations,
23 upon compliance with administrative procedures, administrative
24 requirements, and fees determined by the secretary under RCW 43.70.250
25 and 43.70.280 and such remedial education as is deemed necessary.

26 (5) The secretary may approve an examination prepared and
27 administered by a private testing agency or association of
28 credentialing boards for use by an applicant in meeting the
29 ((certification)) licensure requirement.

30 **Sec. 10.** RCW 18.89.120 and 1996 c 191 s 77 are each amended to
31 read as follows:

32 Applications for ((certification)) licensure shall be submitted on
33 forms provided by the secretary. The secretary may require any
34 information and documentation which reasonably relates to the need to
35 determine whether the applicant meets the criteria for
36 ((certification)) licensure provided in this chapter and chapter 18.130
37 RCW. All applicants shall comply with administrative procedures,

1 administrative requirements, and fees determined by the secretary under
2 RCW 43.70.250 and 43.70.280.

3 **Sec. 11.** RCW 18.89.140 and 1996 c 191 s 78 are each amended to
4 read as follows:

5 ((Certificates)) Licenses shall be renewed according to
6 administrative procedures, administrative requirements, continuing
7 education requirements, and fees determined by the secretary under RCW
8 43.70.250 and 43.70.280.

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 18.89 RCW
10 to read as follows:

11 An applicant holding a license in another state may be licensed to
12 practice in this state without examination if the secretary determines
13 that the other state's licensing standards are substantially equivalent
14 to the standards in this state.

15 **Sec. 13.** RCW 18.120.020 and 1996 c 178 s 9 are each amended to
16 read as follows:

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

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

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

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

35 (4) "Health professions" means and includes the following health
36 and health-related licensed or regulated professions and occupations:

1 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
2 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
3 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
4 dispensing opticians under chapter 18.34 RCW; hearing ((aids))
5 instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A
6 RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery
7 under chapter 18.50 RCW; nursing home administration under chapter
8 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists
9 under chapter 18.55 RCW; osteopathic medicine and surgery under
10 chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A
11 RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine
12 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
13 practical nurses under chapter 18.79 RCW; psychologists under chapter
14 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
15 therapists licensed under chapter 18.59 RCW; respiratory care
16 practitioners ((certified)) licensed under chapter 18.89 RCW;
17 veterinarians and animal technicians under chapter 18.92 RCW; health
18 care assistants under chapter 18.135 RCW; massage practitioners under
19 chapter 18.108 RCW; acupuncturists licensed under chapter 18.06 RCW;
20 persons registered or certified under chapter 18.19 RCW; dietitians and
21 nutritionists certified by chapter 18.138 RCW; radiologic technicians
22 under chapter 18.84 RCW; and nursing assistants registered or certified
23 under chapter 18.88A RCW.

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

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

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

37 (8) "Professional license" means an individual, nontransferable
38 authorization to carry on a health activity based on qualifications
39 which include: (a) Graduation from an accredited or approved program,

1 and (b) acceptable performance on a qualifying examination or series of
2 examinations.

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

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

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

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

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

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

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

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

- 35 (i) Dispensing opticians licensed under chapter 18.34 RCW;
36 (ii) Naturopaths licensed under chapter 18.36A RCW;
37 (iii) Midwives licensed under chapter 18.50 RCW;
38 (iv) Ocularists licensed under chapter 18.55 RCW;

1 (v) Massage operators and businesses licensed under chapter 18.108
2 RCW;
3 (vi) Dental hygienists licensed under chapter 18.29 RCW;
4 (vii) Acupuncturists licensed under chapter 18.06 RCW;
5 (viii) Radiologic technologists certified and X-ray technicians
6 registered under chapter 18.84 RCW;
7 (ix) Respiratory care practitioners ((certified)) licensed under
8 chapter 18.89 RCW;
9 (x) Persons registered or certified under chapter 18.19 RCW;
10 (xi) Persons registered as nursing pool operators under chapter
11 18.52C RCW;
12 (xii) Nursing assistants registered or certified under chapter
13 18.79 RCW;
14 (xiii) Health care assistants certified under chapter 18.135 RCW;
15 (xiv) Dietitians and nutritionists certified under chapter 18.138
16 RCW;
17 (xv) Sex offender treatment providers certified under chapter
18 18.155 RCW;
19 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
20 18.71.205;
21 (xvii) Persons registered as adult family home providers and
22 resident managers under RCW 18.48.020; and
23 (xviii) Denturists licensed under chapter 18.30 RCW.
24 (b) The boards and commissions having authority under this chapter
25 are as follows:
26 (i) The podiatric medical board as established in chapter 18.22
27 RCW;
28 (ii) The chiropractic quality assurance commission as established
29 in chapter 18.25 RCW;
30 (iii) The dental quality assurance commission as established in
31 chapter 18.32 RCW;
32 (iv) The board of hearing and speech as established in chapter
33 18.35 RCW;
34 (v) The board of examiners for nursing home administrators as
35 established in chapter 18.52 RCW;
36 (vi) The optometry board as established in chapter 18.54 RCW
37 governing licenses issued under chapter 18.53 RCW;

1 (vii) The board of osteopathic medicine and surgery as established
2 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
3 18.57A RCW;

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

6 (ix) The medical quality assurance commission as established in
7 chapter 18.71 RCW governing licenses and registrations issued under
8 chapters 18.71 and 18.71A RCW;

9 (x) The board of physical therapy as established in chapter 18.74
10 RCW;

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

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

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

17 (xiv) The veterinary board of governors as established in chapter
18 18.92 RCW.

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

27 (4) All disciplining authorities shall adopt procedures to ensure
28 substantially consistent application of this chapter, the Uniform
29 Disciplinary Act, among the disciplining authorities listed in
30 subsection (2) of this section.

31 NEW SECTION. **Sec. 15.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 18.89.130 and 1991 c 3 s 236 & 1987 c 415 s 14; and

34 (2) RCW 18.89.900 and 1987 c 415 s 20.

35 NEW SECTION. **Sec. 16.** (1) Sections 5, 9, and 10 of this act are
36 necessary for the immediate preservation of the public peace, health,

1 or safety, or support of the state government and its existing public
2 institutions, and take effect July 1, 1997.

3 (2) Sections 1 through 4, 6 through 8, and 11 through 15 of this
4 act take effect July 1, 1998.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.