

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5445

Chapter 275, Laws of 1997
(partial veto)

55th Legislature
1997 Regular Session

DEPARTMENT OF HEALTH--TECHNICAL CORRECTIONS

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 21, 1997
YEAS 43 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 11, 1997
YEAS 96 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 6, 1997, with the
exception of sections 9 and 10 which
are vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SUBSTITUTE SENATE BILL 5445 as passed
by the Senate and the House of
Representatives on the dates hereon
set forth.

MIKE O'CONNELL

Secretary

FILED

May 6, 1997 - 4:11 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5445

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

**By Senate Committee on Health & Long-Term Care (originally sponsored by
Senators Deccio, Wojahn, Wood, Fairley and Winsley)**

Read first time 02/19/97.

1 AN ACT Relating to making technical corrections to statutes
2 administered by the department of health; amending 1995 1st sp.s. c 18
3 553 (uncodified); reenacting and amending RCW 18.71.210, 18.130.040,
4 18.35.060, and 18.35.080; reenacting RCW 18.35.090; adding a new
5 section to chapter 43.03 RCW; creating new sections; and providing an
6 expiration date.

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

8 **Sec. 1.** RCW 18.71.210 and 1995 c 65 s 4 and 1995 c 103 s 1 are
9 each reenacted and amended to read as follows:

10 No act or omission of any physician's trained emergency medical
11 service intermediate life support technician and paramedic, as defined
12 in RCW 18.71.200, or any emergency medical technician or first
13 responder, as defined in RCW 18.73.030, done or omitted in good faith
14 while rendering emergency medical service under the responsible
15 supervision and control of a licensed physician or an approved medical
16 program director or delegate(s) to a person who has suffered illness or
17 bodily injury shall impose any liability upon:

1 (1) The physician's trained emergency medical service intermediate
2 life support technician and paramedic, emergency medical technician, or
3 first responder;

4 (2) The medical program director;

5 (3) The supervising physician(s);

6 (4) Any hospital, the officers, members of the staff, nurses, or
7 other employees of a hospital;

8 (5) Any training agency or training physician(s);

9 (6) Any licensed ambulance service; or

10 (7) Any federal, state, county, city or other local governmental
11 unit or employees of such a governmental unit.

12 This section shall apply to an act or omission committed or omitted
13 in the performance of the actual emergency medical procedures and not
14 in the commission or omission of an act which is not within the field
15 of medical expertise of the physician's trained emergency medical
16 service intermediate life support technician and paramedic, emergency
17 medical technician, or first responder, as the case may be.

18 This section shall apply also, as to the entities and personnel
19 described in subsections (1) through (7) of this section, to any act or
20 omission committed or omitted in good faith by such entities or
21 personnel in rendering services at the request of an approved medical
22 program director in the training of emergency medical service
23 (~~((medical))~~) personnel for certification or recertification pursuant to
24 this chapter.

25 This section shall not apply to any act or omission which
26 constitutes either gross negligence or willful or wanton misconduct.

27 **Sec. 2.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
28 each reenacted and amended to read as follows:

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

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

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

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

38 (iii) Midwives licensed under chapter 18.50 RCW;

1 (iv) Ocularists licensed under chapter 18.55 RCW;
2 (v) Massage operators and businesses licensed under chapter 18.108
3 RCW;
4 (vi) Dental hygienists licensed under chapter 18.29 RCW;
5 (vii) Acupuncturists licensed under chapter 18.06 RCW;
6 (viii) Radiologic technologists certified and X-ray technicians
7 registered under chapter 18.84 RCW;
8 (ix) Respiratory care practitioners certified under chapter 18.89
9 RCW;
10 (x) Persons registered or certified under chapter 18.19 RCW;
11 (xi) Persons registered as nursing pool operators under chapter
12 18.52C RCW;
13 (xii) Nursing assistants registered or certified under chapter
14 ((18.79)) 18.88A RCW;
15 (xiii) Health care assistants certified under chapter 18.135 RCW;
16 (xiv) Dietitians and nutritionists certified under chapter 18.138
17 RCW;
18 (xv) Sex offender treatment providers certified under chapter
19 18.155 RCW;
20 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
21 18.71.205;
22 (xvii) Persons registered as adult family home providers and
23 resident managers under RCW 18.48.020; and
24 (xviii) Denturists licensed under chapter 18.30 RCW.
25 (b) The boards and commissions having authority under this chapter
26 are as follows:
27 (i) The podiatric medical board as established in chapter 18.22
28 RCW;
29 (ii) The chiropractic quality assurance commission as established
30 in chapter 18.25 RCW;
31 (iii) The dental quality assurance commission as established in
32 chapter 18.32 RCW;
33 (iv) The board of hearing and speech as established in chapter
34 18.35 RCW;
35 (v) The board of examiners for nursing home administrators as
36 established in chapter 18.52 RCW;
37 (vi) The optometry board as established in chapter 18.54 RCW
38 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 **Sec. 3.** RCW 18.35.060 and 1996 c 200 s 7 and 1996 c 191 s 19 are
32 each reenacted and amended to read as follows:

33 (1) The department shall issue a hearing instrument fitting/
34 dispensing permit to any applicant who has shown to the satisfaction of
35 the department that the applicant:

36 (a) Is at least twenty-one years of age;

37 (b) If issued a hearing instrument fitter/dispenser permit, would
38 be employed and directly supervised in the fitting and dispensing of

1 hearing instruments by a person licensed or certified in good standing
2 as a hearing instrument fitter/dispenser or audiologist for at least
3 two years unless otherwise approved by the board;

4 (c) Has complied with administrative procedures, administrative
5 requirements, and fees determined as provided in RCW 43.70.250 and
6 43.70.280;

7 (d) Has not committed unprofessional conduct as specified by the
8 uniform disciplinary act; and

9 (e) Is a high school graduate or the equivalent.

10 The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall
11 apply to any person issued a hearing instrument fitter/dispenser
12 permit. Pursuant to the provisions of this section, a person issued a
13 hearing instrument fitter/dispenser permit may engage in the fitting
14 and dispensing of hearing instruments without having first passed the
15 hearing instrument fitter/dispenser examination provided under this
16 chapter.

17 (2) The hearing instrument fitter/dispenser permit shall contain
18 the names of the employer and the licensed or certified supervisor
19 under this chapter who are employing and supervising the hearing
20 instrument fitter/dispenser permit holder and those persons shall
21 execute an acknowledgment of responsibility for all acts of the hearing
22 instrument fitter/dispenser permit holder in connection with the
23 fitting and dispensing of hearing instruments.

24 (3) A hearing instrument fitter/dispenser permit holder may fit and
25 dispense hearing instruments, but only if the hearing instrument
26 fitter/dispenser permit holder is under the direct supervision of a
27 licensed hearing instrument fitter/dispenser or certified audiologist
28 under this chapter in a capacity other than as a hearing instrument
29 fitter/dispenser permit holder. Direct supervision by a licensed
30 hearing instrument fitter/dispenser or certified audiologist shall be
31 required whenever the hearing instrument fitter/dispenser permit holder
32 is engaged in the fitting or dispensing of hearing instruments during
33 the hearing instrument fitter/dispenser permit holder's employment.
34 The board shall develop and adopt guidelines on any additional
35 supervision or training it deems necessary.

36 (4) (~~No individual may hold a hearing instrument fitter/dispenser~~
37 ~~permit for more than two years.~~) The hearing instrument
38 fitter/dispenser permit expires one year from the date of its issuance

1 except that on recommendation of the board the permit may be reissued
2 for one additional year only.

3 (5) No certified audiologist or licensed hearing instrument fitter/
4 dispenser under this chapter may assume the responsibility for more
5 than one hearing instrument fitter/dispenser permit holder at any one
6 time.

7 (6) The department, upon approval by the board, shall issue an
8 interim permit authorizing an applicant for speech-language pathologist
9 certification or audiologist certification who, except for the
10 postgraduate professional experience and the examination requirements,
11 meets the academic and practicum requirements of RCW 18.35.040 to
12 practice under interim permit supervision by a certified speech-
13 language pathologist or certified audiologist. The interim permit is
14 valid for a period of one year from date of issuance. The board shall
15 determine conditions for the interim permit.

16 **Sec. 4.** RCW 18.35.080 and 1996 c 200 s 9 and 1996 c 191 s 20 are
17 each reenacted and amended to read as follows:

18 (1) The department shall license or certify each qualified
19 applicant who satisfactorily completes the required examinations for
20 his or her profession and complies with administrative procedures and
21 administrative requirements established pursuant to RCW 43.70.250 and
22 43.70.280.

23 (2) The board shall waive the examination and grant a speech-
24 language pathology certificate to a person engaged in the profession of
25 speech-language pathology in this state on June 6, 1996, if the board
26 determines that the person meets commonly accepted standards for the
27 profession, as defined by rules adopted by the board. Persons eligible
28 for certification under this subsection must apply for a certificate
29 before July 1, 1997.

30 (3) The board shall waive the examinations and grant an audiology
31 certificate to a person engaged in the profession of audiology in this
32 state on June 6, 1996, if the board determines that the person meets
33 the commonly accepted standards for the profession and has passed the
34 hearing instrument fitter/dispenser examination. Persons eligible for
35 certification under this subsection must apply for a certificate before
36 July 1, 1997.

37 (4) The board shall grant an audiology certificate to a person
38 engaged in the profession of audiology, who has not been licensed as a

1 hearing (~~aid~~ ~~[instrument]~~) instrument fitter/dispenser, but who meets
2 the commonly accepted standards for the profession of audiology and
3 graduated from a board-approved program after January 1, 1993, and has
4 passed sections of the examination pertaining to RCW 18.35.070 (3),
5 (4), and (5). Persons eligible for certification under this subsection
6 must apply for a certificate before July 1, 1997.

7 (5) Persons engaged in the profession of audiology who meet the
8 commonly accepted standards for the profession of audiology and
9 graduated from a board-approved program prior to January 1, 1993, and
10 who have not passed the hearing instrument fitter/dispenser examination
11 shall be granted a temporary audiology certificate (nondispensing) for
12 a period of two years from June 6, 1996, during which time they must
13 pass sections of the hearing instrument fitter/dispenser examination
14 pertaining to RCW 18.35.070 (1)(c), (2)(e) and (f), (3), (4), and (5).
15 The board may extend the term of the temporary certificate upon review.
16 Persons eligible for certification under this subsection must apply for
17 a certificate before July 1, 1997.

18 **Sec. 5.** RCW 18.35.090 and 1996 c 200 s 11 and 1996 c 191 s 21 are
19 each reenacted to read as follows:

20 Each person who engages in practice under this chapter shall comply
21 with administrative procedures and administrative requirements
22 established under RCW 43.70.250 and 43.70.280 and shall keep the
23 license, certificate, or permit conspicuously posted in the place of
24 business at all times. The secretary may establish mandatory
25 continuing education requirements and/or continued competency standards
26 to be met by licensees or certificate or permit holders as a condition
27 for license, certificate, or permit renewal.

28 **Sec. 6.** RCW 18.88A.230 and 1995 1st sp.s. c 18 s 48 are each
29 amended to read as follows:

30 (1) The nurse and nursing assistant shall be accountable for their
31 own individual actions in the delegation process. Nurses acting within
32 the protocols of their delegation authority shall be immune from
33 liability for any action performed in the course of their delegation
34 duties. Nursing assistants following written delegation instructions
35 from registered nurses performed in the course of their accurately
36 written, delegated duties shall be immune from liability.

1 (2) No person may coerce a nurse into compromising patient safety
2 by requiring the nurse to delegate if the nurse determines it is
3 inappropriate to do so. Nurses shall not be subject to any employer
4 reprisal or disciplinary action by the Washington nursing care quality
5 assurance commission for refusing to delegate tasks or refusing to
6 provide the required training for delegation if the nurse determines
7 delegation may compromise patient safety. Nursing assistants shall not
8 be subject to any employer reprisal or disciplinary action by the
9 nursing care quality assurance commission for refusing to accept
10 delegation of a nursing task based on patient safety issues. No
11 community residential program, adult family home, or boarding home
12 contracting to provide assisted-living services may discriminate or
13 retaliate in any manner against a person because the person made a
14 complaint or cooperated in the investigation of a complaint.

15 (3) The department of social and health services shall impose a
16 civil fine of not less than two hundred fifty dollars nor more than one
17 thousand dollars on a community residential program, adult family home,
18 or boarding home under chapter 18, Laws of 1995 1st sp. sess. that
19 knowingly permits an employee to perform a nursing task except as
20 delegated by a nurse pursuant to chapter 18, Laws of 1995 1st sp. sess.

21 **Sec. 7.** 1995 1st sp.s. c 18 s 53 (uncodified) is amended to read
22 as follows:

23 The secretary of health in consultation with the Washington nursing
24 care quality assurance commission and the department of social and
25 health services shall monitor the implementation of sections 45 through
26 54 of this act and shall make an interim report by December 31, 1996,
27 and a final report by December 31, (~~1997~~) 1998, to the legislature
28 with any recommendations for improvements. As part of the monitoring
29 process, the secretary of health and the secretary of social and health
30 services, in consultation with the University of Washington school of
31 nursing, shall conduct a study to be completed by September 30,
32 (~~1997~~) 1998, which shall be a part of the final report to be
33 submitted to the legislature by December 31, (~~1997~~) 1998. The study
34 shall include consideration of the protection of health and safety of
35 persons with developmental disabilities and residents of adult family
36 homes and boarding homes providing assisted living services, including
37 the appropriateness of the tasks allowed for delegation, level and type
38 of training and regulation of nursing assistants. The report shall

1 include direct observation, documentation, and interviews, and shall
2 specifically include data on the following:

- 3 (1) Patient, nurse, and nursing assistant satisfaction;
- 4 (2) Medication errors, including those resulting in
5 hospitalization;
- 6 (3) Compliance with required training;
- 7 (4) Compliance with nurse delegation protocols;
- 8 (5) Incidence of harm to patients, including abuse and neglect;
- 9 (6) Impact on access to care;
- 10 (7) Impact on patient quality of life; and
- 11 (8) Incidence of coercion in the nurse-delegation process.

12 **Sec. 8.** RCW 18.74.010 and 1991 c 12 s 1 are each amended to read
13 as follows:

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

16 (1) "Board" means the board of physical therapy created by RCW
17 18.74.020.

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

19 (3) "Physical therapy" means the treatment of any bodily or mental
20 condition of any person by the use of the physical, chemical, and other
21 properties of heat, cold, air, light, water, electricity, sound,
22 massage, and therapeutic exercise, which includes posture and
23 rehabilitation procedures; the performance of tests and measurements of
24 neuromuscular function as an aid to the diagnosis or treatment of any
25 human condition; performance of treatments on the basis of test
26 findings after consultation with and periodic review by an authorized
27 health care practitioner except as provided in RCW 18.74.012;
28 supervision of selective forms of treatment by trained supportive
29 personnel; and provision of consultative services for health,
30 education, and community agencies. The use of Roentgen rays and radium
31 for diagnostic and therapeutic purposes, the use of electricity for
32 surgical purposes, including cauterization, and the use of spinal
33 manipulation or manipulative mobilization of the spine and its
34 immediate articulations, are not included under the term "physical
35 therapy" as used in this chapter.

36 (4) "Physical therapist" means a person who practices physical
37 therapy as defined in this chapter but does not include massage
38 operators as defined in RCW 18.108.010.

1 (5) "Secretary" means the secretary of health.

2 (6) Words importing the masculine gender may be applied to females.

3 (7) "Authorized health care practitioner" means and includes
4 licensed physicians, osteopathic physicians, chiropractors,
5 naturopaths, (~~pediatrists, and~~) podiatric physicians and surgeons,
6 dentists, and advanced registered nurse practitioners: PROVIDED,
7 HOWEVER, That nothing herein shall be construed as altering the scope
8 of practice of such practitioners as defined in their respective
9 licensure laws.

10 **NEW SECTION. Sec. 9. The department of social and health*
11 *services shall not impose civil fines authorized in RCW 18.88A.230 on*
12 *facilities licensed under chapter 70.128 RCW.*

13 *This section does not affect any other fines or disciplinary*
14 *actions authorized to be imposed by the department for facilities*
15 *licensed under chapter 70.128 RCW.*

16 *This section expires July 1, 1999.*

17 **Sec. 9 was vetoed. See message at end of chapter.*

18 **NEW SECTION. Sec. 10. A new section is added to chapter 43.03*
19 *RCW to read as follows:*

20 *(1) Any part-time commission that has rule-making authority,*
21 *performs quasi-judicial functions, has responsibility for the policy*
22 *direction of a health profession credentialing program, and performs*
23 *regulatory and licensing functions with respect to a health care*
24 *profession licensed under Title 18 RCW shall be identified as a class*
25 *five group for purposes of compensation.*

26 *(2) Except as otherwise provided in this section, each member of a*
27 *class five group is eligible to receive compensation in an amount not*
28 *to exceed two hundred fifty dollars for each day during which the*
29 *member attends an official meeting of the group or performs statutorily*
30 *prescribed duties approved by the chairperson of the group. A person*
31 *shall not receive compensation for a day of service under this section*
32 *if the person (a) occupies a position, normally regarded as full-time*
33 *in nature, in any agency of the federal government, Washington state*
34 *government, or Washington state local government; and (b) receives any*
35 *compensation from such government for working that day.*

1 (3) *Compensation may be paid a member under this section only if it*
2 *is necessarily incurred in the course of authorized business consistent*
3 *with the responsibilities of the commission established by law.*

4 *Sec. 10 was vetoed. See message at end of chapter.

5 NEW SECTION. **Sec. 11.** The department of health shall study the
6 feasibility of updating, designing, and expanding the comprehensive
7 hospital abstract reporting system to include ambulatory and outpatient
8 data. The department shall submit a preliminary report to the
9 legislature by December 31, 1997, and a final report July 1, 1998. The
10 report shall be done in conjunction with potential and current data
11 providers and shall include a cost/benefit analysis, data standards and
12 reporting requirements, financing alternatives, data access and
13 dissemination requirements, prioritization of data needs, and proposed
14 implementation phases.

 Passed the Senate April 21, 1997.

 Passed the House April 11, 1997.

 Approved by the Governor May 6, 1997, with the exception of certain
 items that were vetoed.

 Filed in Office of Secretary of State May 6, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 9 and
3 10, Substitute Senate Bill No. 5445 entitled:

4 "AN ACT Relating to making technical corrections to statutes
5 administered by the department of health;"

6 Section 9 of SSB 5445 would have stayed imposition of civil fines
7 on adult family homes for the improper delegation of nursing tasks
8 until July 1, 1999, while a study is being done. The Department of
9 Social and Health Services should not be prevented from imposing fines
10 when there have been egregious violations of the law. The department
11 should use its discretion in cases where the law or the propriety of a
12 task delegation may be unclear.

13 Section 10 of SSB 5445 would have established a new "class five"
14 category of boards and commissions, that would include only certain
15 health profession commissions. Class five commissions would be
16 eligible to receive compensation up to \$250 per day.

17 Currently, there are several levels of boards and commissions with
18 the highest compensation level being \$100 per day. These are groups
19 that have duties of overriding sensitivity and importance to the public
20 welfare and the operation of state government, and whose members meet
21 more than 100 hours per year. It would be unfair and inappropriate to
22 increase the compensation for health profession commissions without
23 considering adjusting the compensation for other boards and commissions
24 as well.

1 For these reasons, I have vetoed sections 9 and 10 of Substitute
2 Senate Bill No. 5445.

3 With the exception of sections 9 and 10, I am approving Substitute
4 Senate Bill No. 5445."