

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5715

Chapter 285, Laws of 1997

55th Legislature
1997 Regular Session

ORTHOTIC AND PROSTHETIC SERVICES

EFFECTIVE DATE: 7/27/97 - Except sections 1 through 5 and 8 through 12 which become effective on 12/1/98.

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

BRAD OWEN

President of the Senate

Passed by the House April 10, 1997
YEAS 92 NAYS 6

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 7, 1997

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5715** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

May 7, 1997 - 1:59 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5715

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 Wood, Fairley, Franklin, Deccio and Winsley)**

Read first time 03/03/97.

1 AN ACT Relating to orthotic and prosthetic services; reenacting and
2 amending RCW 18.130.040; adding a new chapter to Title 18 RCW; creating
3 a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
6 this act accomplish the following: Safeguard public health, safety,
7 and welfare; protect the public from being misled by unethical, ill-
8 prepared, unscrupulous, and unauthorized persons; assure the highest
9 degree of professional conduct on the part of orthotists and
10 prosthetists; and assure the availability of orthotic and prosthetic
11 services of high quality to persons in need of the services. The
12 purpose of this act is to provide for the regulation of persons
13 offering orthotic and prosthetic services to the public.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Advisory committee" means the orthotics and prosthetics
17 advisory committee.

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

1 (3) "Secretary" means the secretary of health or the secretary's
2 designee.

3 (4) "Orthotics" means the science and practice of evaluating,
4 measuring, designing, fabricating, assembling, fitting, adjusting, or
5 servicing, as well as providing the initial training necessary to
6 accomplish the fitting of, an orthosis for the support, correction, or
7 alleviation of neuromuscular or musculoskeletal dysfunction, disease,
8 injury, or deformity. The practice of orthotics encompasses
9 evaluation, treatment, and consultation. With basic observational gait
10 and postural analysis, orthotists assess and design orthoses to
11 maximize function and provide not only the support but the alignment
12 necessary to either prevent or correct deformity or to improve the
13 safety and efficiency of mobility or locomotion, or both. Orthotic
14 practice includes providing continuing patient care in order to assess
15 its effect on the patient's tissues and to assure proper fit and
16 function of the orthotic device by periodic evaluation.

17 (5) "Orthotist" means a person licensed to practice orthotics under
18 this chapter.

19 (6) "Orthosis" means a custom-fabricated, definitive brace or
20 support that is designed for long-term use. Except for the treatment
21 of scoliosis, orthosis does not include prefabricated or direct-formed
22 orthotic devices, as defined in this section, or any of the following
23 assistive technology devices: Commercially available knee orthoses
24 used following injury or surgery; spastic muscle tone-inhibiting
25 orthoses; upper extremity adaptive equipment; finger splints; hand
26 splints; custom-made, leather wrist gauntlets; face masks used
27 following burns; wheelchair seating that is an integral part of the
28 wheelchair and not worn by the patient independent of the wheelchair;
29 fabric or elastic supports; corsets; arch supports, also known as foot
30 orthotics; low-temperature formed plastic splints; trusses; elastic
31 hose; canes; crutches; cervical collars; dental appliances; and other
32 similar devices as determined by the secretary, such as those commonly
33 carried in stock by a pharmacy, department store, corset shop, or
34 surgical supply facility. Prefabricated orthoses, also known as
35 custom-fitted, or off-the-shelf, are devices that are manufactured as
36 commercially available stock items for no specific patient. Direct-
37 formed orthoses are devices formed or shaped during the molding process
38 directly on the patient's body or body segment. Custom-fabricated
39 orthoses, also known as custom-made orthoses, are devices designed and

1 fabricated, in turn, from raw materials for a specific patient and
2 require the generation of an image, form, or mold that replicates the
3 patient's body or body segment and, in turn, involves the rectification
4 of dimensions, contours, and volumes to achieve proper fit, comfort,
5 and function for that specific patient.

6 (7) "Prosthetics" means the science and practice of evaluating,
7 measuring, designing, fabricating, assembling, fitting, aligning,
8 adjusting, or servicing, as well as providing the initial training
9 necessary to accomplish the fitting of, a prosthesis through the
10 replacement of external parts of a human body lost due to amputation or
11 congenital deformities or absences. The practice of prosthetics also
12 includes the generation of an image, form, or mold that replicates the
13 patient's body or body segment and that requires rectification of
14 dimensions, contours, and volumes for use in the design and fabrication
15 of a socket to accept a residual anatomic limb to, in turn, create an
16 artificial appendage that is designed either to support body weight or
17 to improve or restore function or cosmesis, or both. Involved in the
18 practice of prosthetics is observational gait analysis and clinical
19 assessment of the requirements necessary to refine and mechanically fix
20 the relative position of various parts of the prosthesis to maximize
21 the function, stability, and safety of the patient. The practice of
22 prosthetics includes providing continuing patient care in order to
23 assess the prosthetic device's effect on the patient's tissues and to
24 assure proper fit and function of the prosthetic device by periodic
25 evaluation.

26 (8) "Prosthetist" means a person who is licensed to practice
27 prosthetics under this chapter.

28 (9) "Prosthesis" means a definitive artificial limb that is
29 alignable or articulated, or, in lower extremity applications, capable
30 of weight bearing. Prosthesis means an artificial medical device that
31 is not surgically implanted and that is used to replace a missing limb,
32 appendage, or other external human body part including an artificial
33 limb, hand, or foot. The term does not include artificial eyes, ears,
34 fingers or toes, dental appliances, ostomy products, devices such as
35 artificial breasts, eyelashes, wigs, or other devices as determined by
36 the secretary that do not have a significant impact on the
37 musculoskeletal functions of the body. In the lower extremity of the
38 body, the term prosthesis does not include prostheses required for
39 amputations distal to and including the transmetatarsal level. In the

1 upper extremity of the body, the term prosthesis does not include
2 prostheses that are provided to restore function for amputations distal
3 to and including the carpal level.

4 (10) "Authorized health care practitioner" means licensed
5 physicians, physician's assistants, osteopathic physicians,
6 chiropractors, naturopaths, podiatric physicians and surgeons,
7 dentists, and advanced registered nurse practitioners.

8 NEW SECTION. **Sec. 3.** An orthotist or prosthetist may only provide
9 treatment utilizing new orthoses or prostheses for which the orthotist
10 or prosthetist is licensed to do so, and only under an order from or
11 referral by an authorized health care practitioner. A consultation and
12 periodic review by an authorized health care practitioner is not
13 required for evaluation, repair, adjusting, or servicing of orthoses by
14 a licensed orthotist and servicing of prostheses by a licensed
15 prosthetist. Nor is an authorized health care practitioner's order
16 required for maintenance of an orthosis or prosthesis to the level of
17 its original prescription for an indefinite period of time if the order
18 remains appropriate for the patient's medical needs.

19 Orthotists and prosthetists must refer persons under their care to
20 authorized health care practitioners if they have reasonable cause to
21 believe symptoms or conditions are present that require services beyond
22 the scope of their practice or for which the prescribed orthotic or
23 prosthetic treatment is contraindicated.

24 NEW SECTION. **Sec. 4.** No person may represent himself or herself
25 as a licensed orthotist or prosthetist, use a title or description of
26 services, or engage in the practice of orthotics or prosthetics without
27 applying for licensure, meeting the required qualifications, and being
28 licensed by the department of health, unless otherwise exempted by this
29 chapter.

30 A person not licensed with the secretary must not represent himself
31 or herself as being so licensed and may not use in connection with his
32 or her name the words or letters "L.O.," "L.P.," or "L.P.O.," or other
33 letters, words, signs, numbers, or insignia indicating or implying that
34 he or she is either a licensed orthotist or a licensed prosthetist, or
35 both. No person may practice orthotics or prosthetics without first
36 having a valid license. The license must be posted in a conspicuous
37 location at the person's work site.

1 NEW SECTION. **Sec. 5.** Nothing in this chapter shall be construed
2 to prohibit or restrict:

3 (1) The practice by individuals listed under RCW 18.130.040 and
4 performing services within their authorized scopes of practice;

5 (2) The practice by an individual employed by the government of the
6 United States while engaged in the performance of duties prescribed by
7 the laws of the United States;

8 (3) The practice by a person who is a regular student in an
9 orthotic or prosthetic educational program approved by the secretary,
10 and whose performance of services is pursuant to a regular course of
11 instruction or assignments from an instructor and under the general
12 supervision of the instructor, if the person is designated by a title
13 that clearly indicates the person's status as a student or trainee;

14 (4) A person fulfilling the supervised residency or internship
15 experience requirements described in section 8 of this act, if the
16 activities and services constitute a part of the experience necessary
17 to meet the requirements of this chapter; or

18 (5) A person from performing orthotic or prosthetic services in
19 this state if: (a) The services are performed for no more than ninety
20 working days; and (b) the person is licensed in another state or has
21 met commonly accepted standards for the practice of orthotics or
22 prosthetics as determined by the secretary.

23 NEW SECTION. **Sec. 6.** In addition to other authority provided by
24 law, the secretary has the authority to:

25 (1) Adopt rules under chapter 34.05 RCW necessary to implement this
26 chapter;

27 (2) Establish administrative procedures, administrative
28 requirements, and fees in accordance with RCW 43.70.250 and 43.70.280.
29 All fees collected under this section must be credited to the health
30 professions account as required under RCW 43.70.320;

31 (3) Register applicants, issue licenses to applicants who have met
32 the education, training, and examination requirements for licensure,
33 and deny licenses to applicants who do not meet the minimum
34 qualifications, except that proceedings concerning the denial of
35 credentials based upon unprofessional conduct or impairment are
36 governed by the uniform disciplinary act, chapter 18.130 RCW;

1 (4) Hire clerical, administrative, investigative, and other staff
2 as needed to implement this chapter and hire individuals licensed under
3 this chapter to serve as examiners for any practical examinations;

4 (5) Determine minimum education requirements and evaluate and
5 designate those educational programs from which graduation will be
6 accepted as proof of eligibility to take a qualifying examination for
7 applicants for licensure;

8 (6) Establish the standards and procedures for revocation of
9 approval of education programs;

10 (7) Utilize or contract with individuals or organizations having
11 expertise in the profession or in education to assist in the
12 evaluations;

13 (8) Prepare and administer, or approve the preparation and
14 administration of, examinations for applicants for licensure;

15 (9) Determine whether alternative methods of training are
16 equivalent to formal education, and establish forms, procedures, and
17 criteria for evaluation of an applicant's alternative training to
18 determine the applicant's eligibility to take any qualifying
19 examination;

20 (10) Determine which jurisdictions have licensing requirements
21 equivalent to those of this state and issue licenses without
22 examinations to individuals licensed in those jurisdictions;

23 (11) Define and approve any experience requirement for licensing;

24 (12) Implement and administer a program for consumer education;

25 (13) Adopt rules implementing continuing competency requirements
26 for renewal of the license and relicensing;

27 (14) Maintain the official department records of all applicants and
28 licensees;

29 (15) Establish by rule the procedures for an appeal of an
30 examination failure;

31 (16) Establish requirements and procedures for an inactive license;
32 and

33 (17) With the advice of the advisory committee, the secretary may
34 recommend collaboration with health professions, boards, and
35 commissions to develop appropriate referral protocols.

36 NEW SECTION. **Sec. 7.** (1) The secretary has the authority to
37 appoint an advisory committee to further the purposes of this chapter.
38 The secretary may consider the persons who are recommended for

1 appointment by the orthotic and prosthetic associations of the state.
2 The committee is composed of five members, one member initially
3 appointed for a term of one year, two for a term of two years, and two
4 for a term of three years. Subsequent appointments are for terms of
5 three years. No person may serve as a member of the committee for more
6 than two consecutive terms. Members of the advisory committee must be
7 residents of this state and citizens of the United States. The
8 committee is composed of three individuals licensed in the category
9 designated and engaged in rendering services to the public. Two
10 members must at all times be holders of licenses for the practice of
11 either prosthetics or orthotics, or both, in this state, except for the
12 initial members of the advisory committee, all of whom must fulfill the
13 requirements for licensure under this chapter. One member must be a
14 practicing orthotist. One member must be a practicing prosthetist.
15 One member must be licensed by the state as a physician licensed under
16 chapter 18.57 or 18.71 RCW, specializing in orthopedic medicine or
17 surgery or physiatry. Two members must represent the public at large
18 and be unaffiliated directly or indirectly with the profession being
19 credentialed but, to the extent possible, be consumers of orthotic and
20 prosthetic services. The two members appointed to the advisory
21 committee representing the public at large must have an interest in the
22 rights of consumers of health services and must not be or have been a
23 licensee of a health occupation committee or an employee of a health
24 facility, nor derive his or her primary livelihood from the provision
25 of health services at any level of responsibility.

26 (2) The secretary may remove any member of the advisory committee
27 for cause as specified by rule. In the case of a vacancy, the
28 secretary shall appoint a person to serve for the remainder of the
29 unexpired term.

30 (3) The advisory committee may provide advice on matters
31 specifically identified and requested by the secretary, such as
32 applications for licenses.

33 (4) The advisory committee may be requested by the secretary to
34 approve an examination required for licensure under this chapter.

35 (5) The advisory committee may be requested by the secretary to
36 review and monitor the exemptions to requirements of certain orthoses
37 and prostheses in this chapter and recommend to the secretary any
38 statutory changes that may be needed to properly protect the public.

1 (6) The advisory committee, at the request of the secretary, may
2 recommend rules in accordance with the administrative procedure act,
3 chapter 34.05 RCW, relating to standards for appropriateness of
4 orthotic and prosthetic care.

5 (7) The advisory committee shall meet at the times and places
6 designated by the secretary and hold meetings during the year as
7 necessary to provide advice to the secretary. The committee may elect
8 a chair and a vice-chair. A majority of the members currently serving
9 constitute a quorum.

10 (8) Each member of an advisory committee shall be reimbursed for
11 travel expenses as authorized in RCW 43.03.050 and 43.03.060. In
12 addition, members of the committees shall be compensated in accordance
13 with RCW 43.03.240 when engaged in the authorized business of their
14 committees.

15 (9) The secretary, members of advisory committees, or individuals
16 acting on their behalf are immune from suit in any action, civil or
17 criminal, based on any credentialing or disciplinary proceedings or
18 other official acts performed in the course of their duties.

19 NEW SECTION. **Sec. 8.** (1) An applicant must file a written
20 application on forms provided by the department showing to the
21 satisfaction of the secretary, in consultation with the advisory
22 committee, that the applicant meets the following requirements:

23 (a) The applicant possesses a baccalaureate degree with coursework
24 appropriate for the profession approved by the secretary, or possesses
25 equivalent training as determined by the secretary pursuant to
26 subsections (3) and (5) of this section;

27 (b) The applicant has the amount of formal training, including the
28 hours of classroom education and clinical practice, in areas of study
29 as the secretary deems necessary and appropriate;

30 (c) The applicant has completed a clinical internship or residency
31 in the professional area for which a license is sought in accordance
32 with the standards, guidelines, or procedures for clinical internships
33 or residencies inside or outside the state as established by the
34 secretary, or that are otherwise substantially equivalent to the
35 standards commonly accepted in the fields of orthotics and prosthetics
36 as determined by the secretary pursuant to subsections (3) and (5) of
37 this section. The secretary must set the internship as at least one
38 year.

1 (2) An applicant for licensure as either an orthotist or
2 prosthetist must pass all written and practical examinations that are
3 required and approved by the secretary in consultation with the
4 advisory committee.

5 (3) The standards and requirements for licensure established by the
6 secretary must be substantially equal to the standards commonly
7 accepted in the fields of orthotics and prosthetics.

8 (4) An applicant failing to make the required grade in the first
9 examination may take up to three subsequent examinations as the
10 applicant desires upon prepaying a fee, determined by the secretary
11 under RCW 43.70.250, for each subsequent examination. Upon failing
12 four examinations, the secretary may invalidate the original
13 application and require remedial education before the person may take
14 future examinations.

15 (5) The secretary may waive some of the education, examination, or
16 experience requirements of this section if the secretary determines
17 that the applicant meets alternative standards, established by the
18 secretary through rule, that are substantially equivalent to the
19 requirements in subsections (1) and (2) of this section.

20 NEW SECTION. **Sec. 9.** The secretary may grant a license without an
21 examination for those applicants who have practiced full time for five
22 of the six years prior to the effective date of this act and who have
23 provided comprehensive orthotic or prosthetic, or orthotic and
24 prosthetic, services in an established practice. This section applies
25 only to those individuals who apply within one year of the effective
26 date of this act.

27 NEW SECTION. **Sec. 10.** An applicant holding a license in another
28 state or a territory of the United States may be licensed to practice
29 in this state without examination if the secretary determines that the
30 other jurisdiction's credentialing standards are substantially
31 equivalent to the standards in this jurisdiction.

32 NEW SECTION. **Sec. 11.** The uniform disciplinary act, chapter
33 18.130 RCW, governs the issuance and denial of licenses, unauthorized
34 practice, and the discipline of persons licensed under this chapter.
35 The secretary is the disciplining authority under this chapter.

1 NEW SECTION. **Sec. 12.** This chapter is known and may be cited as
2 the orthotics and prosthetics practice act.

3 **Sec. 13.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
4 each reenacted and amended to read as follows:

5 (1) This chapter applies only to the secretary and the boards and
6 commissions having jurisdiction in relation to the professions licensed
7 under the chapters specified in this section. This chapter does not
8 apply to any business or profession not licensed under the chapters
9 specified in this section.

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

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

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

14 (iii) Midwives licensed under chapter 18.50 RCW;

15 (iv) Ocularists licensed under chapter 18.55 RCW;

16 (v) Massage operators and businesses licensed under chapter 18.108
17 RCW;

18 (vi) Dental hygienists licensed under chapter 18.29 RCW;

19 (vii) Acupuncturists licensed under chapter 18.06 RCW;

20 (viii) Radiologic technologists certified and X-ray technicians
21 registered under chapter 18.84 RCW;

22 (ix) Respiratory care practitioners certified under chapter 18.89
23 RCW;

24 (x) Persons registered or certified under chapter 18.19 RCW;

25 (xi) Persons registered as nursing pool operators under chapter
26 18.52C RCW;

27 (xii) Nursing assistants registered or certified under chapter
28 18.79 RCW;

29 (xiii) Health care assistants certified under chapter 18.135 RCW;

30 (xiv) Dietitians and nutritionists certified under chapter 18.138
31 RCW;

32 (xv) Sex offender treatment providers certified under chapter
33 18.155 RCW;

34 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
35 18.71.205;

36 (xvii) Persons registered as adult family home providers and
37 resident managers under RCW 18.48.020; (~~and~~)

38 (xviii) Denturists licensed under chapter 18.30 RCW; and

1 (xix) Orthotists and prosthetists licensed under chapter 18.-- RCW
2 (sections 2 through 12 of this act).

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

5 (i) The podiatric medical board as established in chapter 18.22
6 RCW;

7 (ii) The chiropractic quality assurance commission as established
8 in chapter 18.25 RCW;

9 (iii) The dental quality assurance commission as established in
10 chapter 18.32 RCW;

11 (iv) The board of hearing and speech as established in chapter
12 18.35 RCW;

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

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

17 (vii) The board of osteopathic medicine and surgery as established
18 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
19 18.57A RCW;

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

22 (ix) The medical quality assurance commission as established in
23 chapter 18.71 RCW governing licenses and registrations issued under
24 chapters 18.71 and 18.71A RCW;

25 (x) The board of physical therapy as established in chapter 18.74
26 RCW;

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

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

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

33 (xiv) The veterinary board of governors as established in chapter
34 18.92 RCW.

35 (3) In addition to the authority to discipline license holders, the
36 disciplining authority has the authority to grant or deny licenses
37 based on the conditions and criteria established in this chapter and
38 the chapters specified in subsection (2) of this section. This chapter
39 also governs any investigation, hearing, or proceeding relating to

1 denial of licensure or issuance of a license conditioned on the
2 applicant's compliance with an order entered pursuant to RCW 18.130.160
3 by the disciplining authority.

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

8 NEW SECTION. **Sec. 14.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 15.** Sections 2 through 12 of this act
13 constitute a new chapter in Title 18 RCW.

14 NEW SECTION. **Sec. 16.** Sections 1 through 5 and 8 through 12 of
15 this act take effect December 1, 1998.

Passed the Senate April 21, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.