
HOUSE BILL 3141

State of Washington

56th Legislature

2000 Regular Session

By Representatives Cody and Parlette

Read first time 02/16/2000. Referred to Committee on Health Care.

1 AN ACT Relating to certification of herbalists; and adding a new
2 chapter to Title 18 RCW.

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

4 NEW SECTION. **Sec. 1.** It is the intent of this chapter to protect
5 the public by providing for the certification of herbalists.

6 The use of botanicals by the general public is growing daily.
7 According to the *Journal of the American Medical Association*, five
8 billion dollars annually is spent nation-wide on medicinal herbs.
9 Retail book websites now list up to three hundred fifty titles on
10 herbal medicine for sale. Herbs are regularly a part of health reports
11 in the media, however not all of the information is related in a useful
12 or accurate way. Clearly, the public has a great desire to use and
13 learn about herbal medicine. The critical issue is for them to learn
14 from a capable and skilled individual. The legislature has an
15 opportunity at this time to set a precedent in protecting the public
16 from misinformation by regulating those qualified practitioners
17 performing a public service.

18 The qualifications and practices of herbalists in this state are
19 virtually unknown to potential clients. By promoting high standards of

1 professional performance, by requiring professional accountability, and
2 by credentialing those persons who seek to provide herbalism under the
3 title certified herbalist, this chapter identifies those practitioners
4 who have achieved a particular level of competency.

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

7 (1) "Certified herbalist" means a person certified to practice
8 herbalism under this chapter.

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

10 (3) "Herbalism" means the use of a wide variety of plants and plant
11 materials to improve the health and well-being of a client. Herbalism
12 includes:

13 (a) Providing herbal counseling, education, and information as
14 components of preventive and restorative health care;

15 (b) Establishing priorities, goals, and objectives that meet client
16 needs and are consistent with available resources and constraints;

17 (c) Developing, implementing, managing, and evaluating herbal care
18 systems; and

19 (d) Evaluating, making changes in, and maintaining appropriate
20 standards of quality in herbal care services.

21 (4) "Herbalist" means an individual, or practitioner, who engages
22 in the practice of herbalism for a fee.

23 (5) "Licensed practitioner" means any licensed health care
24 practitioner performing services within the person's authorized scope
25 of practice.

26 (6) "Secretary" means the secretary of health or the secretary's
27 designee.

28 NEW SECTION. **Sec. 3.** (1) Certification is a voluntary process
29 recognizing an individual who qualifies by examination and meets
30 established educational prerequisites. Certification protects the
31 title of practice.

32 (2) No person may represent oneself as certified or use any title
33 or description of services without applying for certification, meeting
34 the required qualifications, and being certified by the department of
35 health, unless otherwise exempted by this chapter.

36 (3) A person represents himself or herself as a certified herbalist
37 when any title or any description of services is used that incorporates

1 one or more of the following designations: "Certified herbalist" or
2 "C.H."

3 (4) The secretary may by rule proscribe or regulate advertising and
4 other forms of client solicitation that are likely to mislead or
5 deceive the public as to whether someone is certified under this
6 chapter.

7 NEW SECTION. **Sec. 4.** (1) The secretary shall issue a certificate
8 to any applicant who demonstrates to the secretary's satisfaction that
9 the following requirements have been met:

10 (a) Successful completion of an educational program approved by the
11 secretary consisting of:

12 (i) Six hundred classroom contact hours; and

13 (ii) One hundred clinical client contact hours; or

14 (b) Successful completion of alternate training meeting established
15 criteria; and

16 (c) Successful completion of an approved examination.

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

19 (3) In addition, applicants are subject to the grounds for denial
20 of a certificate or issuance of a conditional certificate under chapter
21 18.130 RCW.

22 NEW SECTION. **Sec. 5.** The secretary shall establish by rule the
23 standards and procedures for approval of educational programs and
24 alternative training. The secretary may utilize or contract with
25 individuals or organizations having expertise in the profession or in
26 education to assist in the evaluations. The secretary shall establish
27 by rule the standards and procedures for revocation of approval of
28 educational programs. The standards and procedures set apply equally
29 to educational programs and training in the United States and in
30 foreign jurisdictions. The secretary may establish a fee for
31 educational program evaluations.

32 NEW SECTION. **Sec. 6.** Applications for certification must be
33 submitted on forms provided by the secretary. The secretary may
34 require any information and documentation that reasonably relates to
35 the need to determine whether the applicant meets the requirements for
36 certification provided for in this chapter and chapter 18.130 RCW.

1 Each applicant shall comply with administrative procedures,
2 administrative requirements, and fees determined by the secretary as
3 provided in RCW 43.70.250 and 43.70.280.

4 NEW SECTION. **Sec. 7.** The secretary shall establish by rule the
5 procedural requirements and fees for renewal of certification. Failure
6 to renew shall invalidate the certificate and all privileges granted by
7 the certificate. If a certificate has lapsed for a period longer than
8 three years, the person shall demonstrate competence to the
9 satisfaction of the secretary by taking continuing education courses,
10 or meeting other standards determined by the secretary.

11 NEW SECTION. **Sec. 8.** (1) The secretary has the authority to
12 appoint an advisory committee to further the purposes of this chapter.
13 The advisory committee shall be composed of five members, one member
14 initially appointed for a term of one year, two for a term of two
15 years, and two for a term of three years. Subsequent appointments
16 shall be for terms of three years. No person may serve as a member of
17 the committee for more than two consecutive terms. Members of the
18 advisory committee must be residents of the state. Members of the
19 committee include one naturopath licensed under chapter 18.36A RCW, one
20 acupuncturist licensed under chapter 18.06 RCW, two herbalists who are
21 professional members of the American herbalist guild, and one member of
22 the general public who is not affiliated directly or indirectly with
23 herbalism. The two herbalist members of the committee must be
24 certified under this chapter within two years of the effective date of
25 this section.

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 shall meet at the times and places
31 designated by the secretary and shall hold meetings during the year as
32 necessary to provide advice to the secretary. The committee may elect
33 a chair and a vice chair. A majority of the members currently serving
34 shall constitute a quorum.

35 (4) Each member of the advisory committee shall be reimbursed for
36 travel expenses as authorized in RCW 43.03.050 and 43.03.060. In
37 addition, members of the committee shall be compensated in accordance

1 with RCW 43.03.240 when engaged in the authorized business of their
2 committee.

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

8 (6) The committee's duties include, but shall not be limited to:

9 (a) Evaluating and designating those schools from which successful
10 completion will be accepted as proof of an applicant's eligibility to
11 be certified; and

12 (b) Determining whether alternative methods of training are
13 equivalent to formal education, and to establish forms, procedures, and
14 criteria for evaluation of an applicant's alternative training to
15 determine the applicant's eligibility to be certified.

16 NEW SECTION. **Sec. 9.** Persons certified under this chapter shall
17 provide all clients, at the commencement of any program of treatment,
18 with accurate information concerning their practice. The information
19 must inform the client of the purposes of and resources available under
20 this chapter, including the right of the client to refuse treatment,
21 and that it is the responsibility of the client to choose the provider
22 and treatment modality that best suits the client's needs. The
23 information disclosed by the herbalist must include the herbalist's
24 relevant education and training, the therapeutic orientation of the
25 practice, the proposed course of treatment where known, any financial
26 requirements, and other information as the department may require. The
27 information shall also include a statement that certification of an
28 individual under this chapter does not include a recognition of any
29 practice standards, nor necessarily imply the effectiveness of any
30 treatment. Both the client and the herbalist must acknowledge in
31 writing the receipt of the information required to be disclosed in this
32 section.

33 NEW SECTION. **Sec. 10.** The uniform disciplinary act, chapter
34 18.130 RCW, governs the issuance and denial of credentials,
35 unauthorized practice, and the discipline of persons credentialed under
36 this chapter. The secretary is the disciplining authority under this
37 chapter.

1 NEW SECTION. **Sec. 11.** Nothing in this chapter shall be construed
2 to prohibit or restrict:

3 (1) Owners, operators, or employees of health food stores or herbal
4 apothecaries provided the owners, operators, or employees do not hold
5 themselves out to be certified herbalists;

6 (2) The practice by an individual licensed, certified, or
7 registered under the laws of this state and performing services within
8 the authorized scope of practice;

9 (3) The practice of herbalism by a person for no fee;

10 (4) The practice of herbalism by a person under the auspices of a
11 religious denomination, church, or organization, or the practice of
12 religion itself;

13 (5) Herbalists who are not Washington residents from providing up
14 to ten days per quarter of training or workshops in the state, as long
15 as they do not hold themselves out to be certified in Washington state.

16 (6) The practice by an individual employed by the government of the
17 United States while engaged in the performance of duties prescribed by
18 the laws of the United States; and

19 (7) The practice by a person who is a regular student in an
20 educational program approved by the secretary, and whose performance of
21 services is pursuant to a regular course of instruction or assignments
22 from an instructor and under the general supervision of the instructor.

23 NEW SECTION. **Sec. 12.** In addition to any other authority provided
24 by 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 all certification and renewal fees in accordance with
28 RCW 43.70.250;

29 (3) Establish forms and procedures necessary to administer this
30 chapter;

31 (4) Register any applicants, and to issue certificates to
32 applicants who have met the education, training, and examination
33 requirements for certification and to deny a certificate to applicants
34 who do not meet the minimum qualifications, except that proceedings
35 concerning the denial of a certificate based upon unprofessional
36 conduct or impairment shall be governed by the uniform disciplinary
37 act, chapter 18.130 RCW;

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

5 (6) Determine minimum educational requirements and evaluate and
6 designate those educational programs from which successful completion
7 will be accepted as proof of eligibility to take a qualifying
8 examination for applicants for certification;

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

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

17 (9) Determine which states have certification requirements
18 equivalent to those of this state, and issue certificates to
19 individuals certified in those states without examinations;

20 (10) Define and approve any experience requirement for
21 certification;

22 (11) Implement and administer a program for consumer education;

23 (12) Adopt rules implementing a continuing competency program;

24 (13) Maintain the official department record of all applicants and
25 certificate holders; and

26 (14) Establish by rule the procedures for an appeal of an
27 examination failure.

28 NEW SECTION. **Sec. 13.** The secretary shall keep an official record
29 of all proceedings. A part of the record shall consist of a register
30 of all applicants for certification under this chapter and the results
31 of each application.

32 NEW SECTION. **Sec. 14.** An applicant holding a certificate in
33 another state may be certified to practice in this state without
34 examination if the secretary determines that the other state's
35 certification standards are substantially equivalent to the standards
36 in this state.

1 NEW SECTION. **Sec. 15.** This chapter only applies to a business or
2 profession regulated under the laws of this state if this chapter is
3 specifically referenced in the laws regulating that business or
4 profession.

5 NEW SECTION. **Sec. 16.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act
10 constitute a new chapter in Title 18 RCW.

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