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**SENATE BILL 5224**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Frockt, Rivers, McCoy, Hasegawa, Keiser, and Saldaña

AN ACT Relating to increasing access to oral health care; amending RCW 18.32.030, 18.32.0351, 18.130.040, 18.260.010, 18.260.040, 18.260.070, 18.260.080, and 69.41.030; reenacting and amending RCW 18.120.020 and 69.41.010; adding a new section to chapter 43.70 RCW; adding a new chapter to Title 18 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that good oral health is an integral piece of overall health and well-being. Without treatment, dental disease compromises overall health and requires increasingly costly interventions. However, most dental disease can be prevented at little cost through routine dental care and disease prevention.

Dental-related issues are a leading reason that Washingtonians seek care in hospital emergency departments, which has become the source of care for many, especially uninsured and low-income populations.

It is the intent of the legislature to expand access to oral health care for all Washingtonians through an evidence-based mid-level dental provider called a dental therapist. Dental therapy is a strategy to address racial and ethnic disparities in health and rural health care access gaps. Dental therapists are also a strategy to increase workforce diversity in health care and expand career opportunities for existing members of the dental care workforce such as dental hygienists.

It is the legislature's intent that dental therapists will meet the needs of local communities as they work under the direction of a licensed Washington dentist. The legislature intends for dental therapists to be incorporated into the dental care workforce and used to effectively treat more patients.

It is the intent of the legislature to follow the national commission on dental accreditation's standards for dental therapy education. This will ensure that dental therapists are trained to the highest quality standards and provide state-to-state consistency. It is the intent of the legislature that incorporating the commission on dental accreditation's standards for dental therapy education will pave the way for Washington education institutions to become accredited programs and for students to qualify for financial aid.

It is also the intent of the legislature to provide an efficient and reasonable pathway for dental health aide therapists certified by a federal community health aide program or licensed by an Indian tribe that has adopted equivalent or higher standards than those imposed by a federally authorized community health aide program certification board, to become a Washington state licensed dental therapist.

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

(1) "Committee" means the dental hygiene examining committee established in chapter 18.29 RCW.

(2) "Dental therapist" means a person licensed under this chapter who provides dental therapy under the off-site supervision of a dentist pursuant to a written practice plan contract with a dentist.

(3) "Dental therapy" means the services and procedures specified in section 5 of this act.

(4) "Dentist" means a person licensed to practice dentistry under chapter 18.32 RCW.

(5) "Department" means the department of health.

(6) "Off-site supervision of a dentist" means supervision that does not require the dentist to be physically present or to personally examine or diagnose the patient.

(7) "Secretary" means the secretary of health.

(8) "Supervision of a dentist" means that a supervising dentist:

(a) Has personally examined and diagnosed the patient and has personally authorized the procedures to be performed;

(b) Is continuously on-site while the procedure in question is being performed; and

(c) Is capable of responding immediately in the event of an emergency.

NEW SECTION. **Sec.**  No person may practice dental therapy or represent himself or herself as a dental therapist without being licensed by the department under this chapter.

NEW SECTION. **Sec.**  The department shall issue a license to practice as a dental therapist to any applicant who:

(1) Pays any applicable fees established by the secretary under RCW 43.70.110 and 43.70.250;

(2) Submits, on forms provided by the secretary, the applicant's name, address, and other applicable information as determined by the secretary;

(3) Completes a preceptorship of at least four hundred hours under the supervision of a dentist;

(4) Passes an examination approved by the committee; and

(5) Successfully completes a dental therapist program that is accredited by the commission on dental accreditation.

NEW SECTION. **Sec.**  (1) Subject to the limitations in this section and section 6 of this act, a dental therapist may provide the following services and procedures:

(a) Oral health instruction and disease prevention education, including nutritional counseling and dietary analysis;

(b) Preliminary charting of the oral cavity;

(c) Making radiographs;

(d) Mechanical polishing;

(e) Prophylaxis;

(f) Periodontal scaling and root planing;

(g) Application of topical preventative or prophylactic agents, including fluoride varnishes and pit and fissure sealants;

(h) Pulp vitality testing;

(i) Application of desensitizing medication or resin;

(j) Fabrication of athletic mouth guards;

(k) Placement of temporary restorations;

(l) Fabrication of soft occlusal guards;

(m) Tissue conditioning and soft reline;

(n) Atraumatic restorative therapy;

(o) Dressing changes;

(p) Tooth reimplantation;

(q) Administration of local anesthetic;

(r) Administration of nitrous oxide;

(s) Emergency palliative treatment of dental pain;

(t) The placement and removal of space maintainers;

(u) Cavity preparation;

(v) Restoration of primary and permanent teeth;

(w) Placement of temporary crowns;

(x) Preparation and placement of preformed crowns;

(y) Pulpotomies on primary teeth;

(z) Indirect and direct pulp capping on primary and permanent teeth;

(aa) Stabilization of reimplanted teeth;

(bb) Extractions of primary teeth;

(cc) Suture removal;

(dd) Brush biopsies;

(ee) Repair of defective prosthetic devices;

(ff) Recementing of permanent crowns;

(gg) Oral evaluation and assessment of dental disease and the formulation of an individualized treatment plan;

(hh) The supervision of expanded function dental auxiliaries and dental assistants. However, a dental therapist may supervise no more than a total of four expanded function dental auxiliaries and dental assistants in any one practice setting. A dental therapist may not supervise an expanded function dental auxiliary or dental assistant with respect to tasks that the dental therapist is not authorized to perform;

(ii) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of plus 3 to plus 4 if the teeth are not unerupted, are not impacted, are not fractured, and do not need to be sectioned for removal; and

(jj) The dispensation and oral administration of drugs pursuant to subsection (2) of this section.

(2)(a) A dental therapist may dispense and orally administer the following drugs within the parameters of the practice plan contract established in section 6 of this act: Nonnarcotic analgesics, anti-inflammatories, preventive agents, and antibiotics.

(b) The authority to dispense and orally administer drugs extends only to the drugs identified in this subsection (2) and may be further limited by the practice plan contract.

(c) The authority to dispense includes the authority to dispense sample drugs within the categories established in this subsection (2) if the dispensing is permitted under the practice plan contract.

(d) A dental therapist may not dispense or administer narcotic drugs as defined in chapter 69.50 RCW.

NEW SECTION. **Sec.**  (1) A dental therapist may only practice dental therapy pursuant to a written practice plan contract with a dentist. The contract must, at a minimum, contain the following elements:

(a) Practice settings where services and procedures may be provided;

(b) Any limitations on the services or procedures the dental therapist may provide;

(c) Age and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;

(d) Procedures for creating and maintaining dental records for patients treated by the dental therapist;

(e) A plan to manage medical emergencies in each practice setting where the dental therapist provides care;

(f) A quality assurance plan for monitoring care provided by the dental therapist or, including patient care review, referral follow-up, and a quality assurance chart review;

(g) Protocols for administering and dispensing medications, including the specific circumstances under which the medications may be dispensed and administered;

(h) Criteria relating to the provision of care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to the initiation of care; and

(i) Specific written protocols governing situations where the dental therapist encounters a patient requiring treatment that exceeds the dental therapist's scope of practice or capabilities.

(2)(a) In addition to the elements specified in subsection (1) of this section, a written practice plan contract with a dental therapist must specify the services and procedures the dental therapist is authorized to provide.

(b) All of the services and procedures the dental therapist provides pursuant to the practice plan contract must be provided under the off-site supervision of the contracting dentist. The contracting dentist shall accept responsibility for all services and procedures authorized and provided by the dental therapist pursuant to the practice plan contract.

(c) A contracting dentist who knowingly permits a dental therapist to provide a service or procedure that is not authorized in the practice plan contract, or any dental therapist who provides a service or procedure that is not authorized in the practice plan contract, commits unprofessional conduct for purposes of chapter 18.130 RCW.

(3) A dentist who enters into a written practice plan contract with a dental therapist shall:

(a) Directly provide or arrange for another dentist or specialist to provide any necessary advanced procedures or services needed by the patient or any treatment that exceeds the dental therapist's scope of practice or capabilities; and

(b) Ensure that he or she or another dentist is available to the dental therapist for instant communication during treatment if needed.

(4) Practice plan contracts must be signed and maintained by both the contracting dentist and the dental therapist. The contracts must be submitted to the department on an annual basis, and must be made available to the public upon request. The contract must also be made available at the practice of the dental therapist and provided to patients of the practitioner's practice upon request.

(5) A contracting dentist may enter into a practice plan contract with no more than a total of five dental therapists at any one time.

NEW SECTION. **Sec.**  Nothing in this chapter prohibits or affects:

(1) The practice of dental therapy by an individual otherwise licensed under this title and performing services within his or her scope of practice;

(2) The practice of dental therapy in the discharge of official duties on behalf of the United States government, including, but not limited to, the armed forces, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) The practice of dental therapy pursuant to an education program described in section 4 of this act;

(4) The practice of dental therapy under the supervision of a dentist necessary to meet the clinical experience or preceptorship requirements of section 4 of this act; or

(5) The practice of federally certified dental health aide therapists or tribally licensed dental therapists described in section 10 of this act.

NEW SECTION. **Sec.**  A dental therapist may practice only in the following settings:

(1) Federally qualified health centers;

(2) Clinics operated by accredited schools of dentistry or dental hygiene;

(3) Clinics operated by a tribal health program or an urban Indian organization, as those terms are defined in the Indian health care improvement act, 25 U.S.C. Sec. 1603; or

(4) Any other clinic or practice setting, including mobile or temporary dental clinics, in which at least thirty-five percent of the total patient base of the dental therapist consists of patients who:

(a) Are enrolled in a Washington state medicaid program;

(b) Have a medical disability or chronic condition that creates a significant barrier to receiving dental care; or

(c) Have annual incomes of less than one hundred thirty-three percent of the federal poverty level calculated using modified annual gross income as defined in section 2002 of P.L. 111-148, as amended, and do not have dental coverage, either through medicaid or private insurance.

NEW SECTION. **Sec.**  Chapter 18.130 RCW governs the unlicensed practice, the issuance and denial of licenses, and the discipline of persons licensed under this chapter. The dental quality assurance commission is the disciplining authority under this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 43.70 RCW to read as follows:

(1) A federally recognized Indian tribe, tribal organization, or urban Indian organization is authorized to train, employ, or contract with or for the services of a dental health aide therapist. Any dental health aide therapist employed or contracted to perform services under this section must be certified by either a federally authorized community health aide program certification board or an Indian tribe that has adopted equivalent or higher standards than those imposed by a federally authorized community health aide program certification board regarding curriculum, training, scope of practice, continuing education, and supervision requirements. Dentists employed or contracted by a federally recognized Indian tribe, tribal organization, or urban Indian organization are also authorized to supervise a dental health aide therapist trained, employed, or contracted to perform services under this section.

(2) A dental health aide therapist, employed or contracted to perform services under this section may perform only those procedures permitted under standards adopted by a federally authorized community health aide program certification board or an Indian tribe that has adopted equivalent or higher standards than those imposed by a federally authorized community health aide program certification board regarding scope of practice, continuing education, and supervision requirements. A dental health aide therapist is subject to any service limitations provided by the Indian health care improvement act, 25 U.S.C. Sec. 1616l. A dental health aide therapist, is also subject to any applicable limitations written into a practice agreement by the supervising dentist of the dental health aide therapist.

(3) A dental health aide therapist, employed or contracted to perform services under this section may do so only in practice settings operated by an Indian health program or an urban Indian organization.

(4) For purposes of this section, the terms "Indian tribe," "Indian health program," "tribal organization," and "urban Indian organization" have the meaning given them in the Indian health care improvement act, 25 U.S.C. Sec. 1603.

(5)(a) The secretary shall convene a dental health aide therapist work group. The work group must be comprised of representatives committed to the legislative intent outlined in section 1 of this act, from the following entities:

(i) A community college considering the establishment of a dental therapist program;

(ii) A four-year university considering the establishment of a dental therapist program;

(iii) The director of a clinic hiring a registered dental hygienist who is also a dental therapist;

(iv) A tribal college considering establishment of a dental health aide therapist or dental therapist education program;

(v) A dental health aide therapist education program expert;

(vi) A tribal liaison from the department of health;

(vii) A dental hygiene examining committee member;

(viii) A tribal representative from a tribe employing a dental health aide therapist;

(ix) The Washington dental hygienists' association;

(x) The director of a dental hygiene therapy education program;

(xi) A representative from the commission on dental accreditation;

(xii) A member of the Alaska community health aide program certification board who is not an educator;

(xiii) The American Indian health commission of Washington state;

(xiv) An urban Indian program dental clinic; and

(xv) The northwest Portland area Indian health board.

(b) The work group shall:

(i) Develop and recommend criteria for establishing a pathway for dental health aide therapists licensed by tribes or tribal organizations, or certified by a federally authorized community health aide program, to become a licensed dental therapist in Washington state; and

(ii) Evaluate the accreditation standards and competencies of existing tribe or tribal organizations' dental health aide therapist certification programs and make recommendations for any additional education, clinical experiences, and evaluation and examination processes necessary to meet Washington state dental therapist licensure requirements.

(c) Staff support for the work group must be provided by the department.

(d) The work group must be convened no later than July 1, 2017.

(e) The work group must report its findings and recommendations to the health care committees of the legislature by December 1, 2017.

(6) This section expires December 1, 2017.

**Sec.**  RCW 18.32.030 and 2012 c 23 s 7 are each amended to read as follows:

The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The rendering of dental relief in emergency cases in the practice of his or her profession by a physician or surgeon, licensed as such and registered under the laws of this state, unless the physician or surgeon undertakes to or does reproduce lost parts of the human teeth in the mouth or to restore or to replace in the human mouth lost or missing teeth;

(2) The practice of dentistry in the discharge of official duties by dentists in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) Dental schools or colleges approved under RCW 18.32.040, and the practice of dentistry by students in accredited dental schools or colleges approved by the commission, when acting under the direction and supervision of Washington state-licensed dental school faculty;

(4) The practice of dentistry by licensed dentists of other states or countries while appearing as clinicians at meetings of the Washington state dental association, or component parts thereof, or at meetings sanctioned by them, or other groups approved by the commission;

(5) The use of roentgen and other rays for making radiographs or similar records of dental or oral tissues, under the supervision of a licensed dentist or physician;

(6) The making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts; providing the same are made, repaired, altered, or supplied pursuant to the written instructions and order of a licensed dentist which may be accompanied by casts, models, or impressions furnished by the dentist, and the prescriptions shall be retained and filed for a period of not less than three years and shall be available to and subject to the examination of the secretary or the secretary's authorized representatives;

(7) The removal of deposits and stains from the surfaces of the teeth, the application of topical preventative or prophylactic agents, and the polishing and smoothing of restorations, when performed or prescribed by a dental hygienist licensed under the laws of this state;

(8) A qualified and licensed physician and surgeon or osteopathic physician and surgeon extracting teeth or performing oral surgery pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

(9) The performing of dental operations or services by registered dental assistants and licensed expanded function dental auxiliaries holding a credential issued under chapter 18.260 RCW when performed under the supervision of a licensed dentist, by dental therapists licensed under chapter 18.--- RCW (the new chapter created in section 21 of this act), or by other persons not licensed under this chapter if the person is licensed pursuant to chapter 18.29, 18.57, 18.71, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, each while acting within the scope of the person's permitted practice under the person's license: PROVIDED HOWEVER, That such persons shall in no event perform the following dental operations or services unless permitted to be performed by the person under this chapter or chapters 18.29, 18.57, 18.71, 18.79 as it applies to registered nurses and advanced registered nurse practitioners, and 18.260 RCW:

(a) Any removal of or addition to the hard or soft tissue of the oral cavity;

(b) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;

(c) Any administration of general or injected local anaesthetic of any nature in connection with a dental operation, including intravenous sedation;

(d) Any oral prophylaxis;

(e) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis; and

(10) The performing of dental services described in RCW 18.350.040 by dental anesthesia assistants certified under chapter 18.350 RCW when working under the supervision and direction of an oral and maxillofacial surgeon or dental anesthesiologist.

**Sec.**  RCW 18.32.0351 and 2007 c 269 s 16 are each amended to read as follows:

The Washington state dental quality assurance commission is established, consisting of ((~~sixteen~~)) eighteen members each appointed by the governor to a four-year term. No member may serve more than two consecutive full terms. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, members of the previous boards and committees regulating these professions be appointed to the commission. Members of the commission hold office until their successors are appointed. The governor may appoint members of the initial commission to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. Twelve members of the commission must be dentists, two members must be dental therapists licensed under chapter 18.--- RCW (the new chapter created in section 21 of this act), two members must be expanded function dental auxiliaries licensed under chapter 18.260 RCW, and two members must be public members.

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

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

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

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

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

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((~~and~~)) licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.380 RCW; and dental therapists licensed under chapter 18.--- RCW (the new chapter created in section 21 of this act).

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

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

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and

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

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

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

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

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, licenses issued under chapter 18.--- RCW (the new chapter created in section 21 of this act), and certifications issued under chapter 18.350 RCW;

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

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

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

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

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

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

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

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

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

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

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

**Sec.**  RCW 18.260.010 and 2007 c 269 s 1 are each amended to read as follows:

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

(1) "Close supervision" means that a supervising dentist or dental therapist whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervising dentist or dental therapist is continuously on-site and physically present in the treatment facility while the procedures are performed by the assistive personnel and capable of responding immediately in the event of an emergency. The term does not require a supervising dentist or dental therapist to be physically present in the operatory.

(2) "Commission" means the Washington state dental quality assurance commission created in chapter 18.32 RCW.

(3) "Dental assistant" means a person who is registered by the commission to provide supportive services to a licensed dentist to the extent provided in this chapter and under the close supervision of a dentist.

(4) "Dental therapist" means an individual who holds a license to practice as a dental therapist under chapter 18.--- RCW (the new chapter created in section 21 of this act).

(5) "Dentist" means an individual who holds a license to practice dentistry under chapter 18.32 RCW.

((~~(5)~~)) (6) "Department" means the department of health.

((~~(6)~~)) (7) "Expanded function dental auxiliary" means a person who is licensed by the commission to provide supportive services to a licensed dentist or dental therapist to the extent provided in this chapter and under the specified level of supervision of a dentist or dental therapist.

((~~(7)~~)) (8) "General supervision" means that a supervising dentist or dental therapist has examined and diagnosed the patient and provided subsequent instructions to be performed by the assistive personnel, but does not require that the dentist or dental therapist be physically present in the treatment facility.

((~~(8)~~)) (9) "Secretary" means the secretary of health.

((~~(9)~~)) (10) "Supervising dental therapist" means a dental therapist licensed under chapter 18.--- RCW (the new chapter created in section 21 of this act) who is responsible for providing the appropriate level of supervision for dental assistants and expanded function dental auxiliaries.

(11) "Supervising dentist" means a dentist licensed under chapter 18.32 RCW that is responsible for providing the appropriate level of supervision for dental assistants and expanded function dental auxiliaries.

**Sec.**  RCW 18.260.040 and 2015 c 120 s 3 are each amended to read as follows:

(1)(a) The commission shall adopt rules relating to the scope of dental assisting services related to patient care and laboratory duties that may be performed by dental assistants.

(b) In addition to the services and duties authorized by the rules adopted under (a) of this subsection, a dental assistant may apply topical anesthetic agents.

(c) All dental services performed by dental assistants under (a) or (b) of this subsection must be performed under the close supervision of a supervising dentist or a supervising dental therapist as the dentist or dental therapist may allow.

(2) In addition to any other limitations established by the commission, dental assistants may not perform the following procedures:

(a) Any scaling procedure;

(b) Any oral prophylaxis, except coronal polishing;

(c) Administration of any general or local anesthetic, including intravenous sedation;

(d) Any removal of or addition to the hard or soft tissue of the oral cavity;

(e) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth, jaw, or adjacent structures; and

(f) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis, other than impressions allowed as a delegated duty for dental assistants pursuant to rules adopted by the commission.

(3) A dentist or dental therapist may not assign a dental assistant to perform duties until the dental assistant has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

**Sec.**  RCW 18.260.070 and 2007 c 269 s 6 are each amended to read as follows:

(1) The commission shall adopt rules relating to the scope of expanded function dental auxiliary services related to patient care and laboratory duties that may be performed by expanded function dental auxiliaries.

(2) The scope of expanded function dental auxiliary services that the commission identifies in subsection (1) of this section includes:

(a) In addition to the dental assisting services that a dental assistant may perform under the close supervision of a supervising dentist or a supervising dental therapist, the performance of the following services under the general supervision of a supervising dentist or a supervising dental therapist as the dentist or dental therapist may allow:

(i) Performing coronal polishing;

(ii) Giving fluoride treatments;

(iii) Applying sealants;

(iv) Placing dental x-ray film and exposing and developing the films;

(v) Giving patient oral health instruction; and

(b) Notwithstanding any prohibitions in RCW 18.260.040, the performance of the following services under the close supervision of a supervising dentist or a supervising dental therapist as the dentist or dental therapist may allow:

(i) Placing and carving direct restorations; and

(ii) Taking final impressions.

(3) A dentist or dental therapist may not assign an expanded function dental auxiliary to perform services until the expanded function dental auxiliary has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

**Sec.**  RCW 18.260.080 and 2007 c 269 s 7 are each amended to read as follows:

A supervising dentist or a supervising dental therapist is responsible for:

(1) Maintaining the appropriate level of supervision for dental assistants and expanded function dental auxiliaries; and

(2) Ensuring that the dental assistants and expanded function dental auxiliaries that the dentist or dental therapist supervises are able to competently perform the tasks that they are assigned.

**Sec.**  RCW 69.41.010 and 2016 c 148 s 10 and 2016 c 97 s 2 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Commission" means the pharmacy quality assurance commission.

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(5) "Department" means the department of health.

(6) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(7) "Dispenser" means a practitioner who dispenses.

(8) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(9) "Distributor" means a person who distributes.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(11) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization transmitted verbally by telephone nor a facsimile manually signed by the practitioner.

(12) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(14) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(15) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an East Asian medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW or a dental therapist licensed under chapter 18.--- RCW (the new chapter created in section 21 of this act);

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

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

**Sec.**  RCW 69.41.030 and 2016 c 148 s 11 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, a dental therapist under chapter 18.--- RCW (the new chapter created in section 21 of this act) as authorized in section 5 of this act or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

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

NEW SECTION. **Sec.**  The department of health and the dental quality assurance commission shall adopt any rules necessary to implement this act.

NEW SECTION. **Sec.**  Section 10 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  Sections 1 through 9, 11 through 20, and 22 of this act take effect January 1, 2018.

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