
SENATE BILL 5224

State of Washington

65th Legislature

2017 Regular Session

By Senators Frockt, Rivers, McCoy, and Hasegawa

1 AN ACT Relating to increasing access to oral health care;
2 amending RCW 18.32.030, 18.32.0351, 18.130.040, 18.260.010,
3 18.260.040, 18.260.070, 18.260.080, and 69.41.030; reenacting and
4 amending RCW 18.120.020 and 69.41.010; adding a new section to
5 chapter 43.70 RCW; adding a new chapter to Title 18 RCW; creating a
6 new section; providing an effective date; providing an expiration
7 date; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that good oral
10 health is an integral piece of overall health and well-being. Without
11 treatment, dental disease compromises overall health and requires
12 increasingly costly interventions. However, most dental disease can
13 be prevented at little cost through routine dental care and disease
14 prevention.

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

19 It is the intent of the legislature to expand access to oral
20 health care for all Washingtonians through an evidence-based mid-
21 level dental provider called a dental therapist. Dental therapy is a

1 strategy to address racial and ethnic disparities in health and rural
2 health care access gaps. Dental therapists are also a strategy to
3 increase workforce diversity in health care and expand career
4 opportunities for existing members of the dental care workforce such
5 as dental hygienists.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 NEW SECTION. **Sec. 3.** No person may practice dental therapy or
13 represent himself or herself as a dental therapist without being
14 licensed by the department under this chapter.

15 NEW SECTION. **Sec. 4.** The department shall issue a license to
16 practice as a dental therapist to any applicant who:

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

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

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

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

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

27 NEW SECTION. **Sec. 5.** (1) Subject to the limitations in this
28 section and section 6 of this act, a dental therapist may provide the
29 following services and procedures:

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

32 (b) Preliminary charting of the oral cavity;

33 (c) Making radiographs;

34 (d) Mechanical polishing;

35 (e) Prophylaxis;

36 (f) Periodontal scaling and root planing;

- 1 (g) Application of topical preventative or prophylactic agents,
2 including fluoride varnishes and pit and fissure sealants;
- 3 (h) Pulp vitality testing;
- 4 (i) Application of desensitizing medication or resin;
- 5 (j) Fabrication of athletic mouth guards;
- 6 (k) Placement of temporary restorations;
- 7 (l) Fabrication of soft occlusal guards;
- 8 (m) Tissue conditioning and soft reline;
- 9 (n) Atraumatic restorative therapy;
- 10 (o) Dressing changes;
- 11 (p) Tooth reimplantation;
- 12 (q) Administration of local anesthetic;
- 13 (r) Administration of nitrous oxide;
- 14 (s) Emergency palliative treatment of dental pain;
- 15 (t) The placement and removal of space maintainers;
- 16 (u) Cavity preparation;
- 17 (v) Restoration of primary and permanent teeth;
- 18 (w) Placement of temporary crowns;
- 19 (x) Preparation and placement of preformed crowns;
- 20 (y) Pulpotomies on primary teeth;
- 21 (z) Indirect and direct pulp capping on primary and permanent
22 teeth;
- 23 (aa) Stabilization of reimplanted teeth;
- 24 (bb) Extractions of primary teeth;
- 25 (cc) Suture removal;
- 26 (dd) Brush biopsies;
- 27 (ee) Repair of defective prosthetic devices;
- 28 (ff) Recementing of permanent crowns;
- 29 (gg) Oral evaluation and assessment of dental disease and the
30 formulation of an individualized treatment plan;
- 31 (hh) The supervision of expanded function dental auxiliaries and
32 dental assistants. However, a dental therapist may supervise no more
33 than a total of four expanded function dental auxiliaries and dental
34 assistants in any one practice setting. A dental therapist may not
35 supervise an expanded function dental auxiliary or dental assistant
36 with respect to tasks that the dental therapist is not authorized to
37 perform;
- 38 (ii) Nonsurgical extractions of periodontally diseased permanent
39 teeth with tooth mobility of plus 3 to plus 4 if the teeth are not

1 unerupted, are not impacted, are not fractured, and do not need to be
2 sectioned for removal; and

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

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

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

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

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

17 NEW SECTION. **Sec. 6.** (1) A dental therapist may only practice
18 dental therapy pursuant to a written practice plan contract with a
19 dentist. The contract must, at a minimum, contain the following
20 elements:

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

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

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

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

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

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

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

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

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

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

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

14 (c) A contracting dentist who knowingly permits a dental
15 therapist to provide a service or procedure that is not authorized in
16 the practice plan contract, or any dental therapist who provides a
17 service or procedure that is not authorized in the practice plan
18 contract, commits unprofessional conduct for purposes of chapter
19 18.130 RCW.

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

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

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

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

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

37 NEW SECTION. **Sec. 7.** Nothing in this chapter prohibits or
38 affects:

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

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

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

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

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

16 NEW SECTION. **Sec. 8.** A dental therapist may practice only in
17 the following settings:

18 (1) Federally qualified health centers;

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

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

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

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

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

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

36 NEW SECTION. **Sec. 9.** Chapter 18.130 RCW governs the unlicensed
37 practice, the issuance and denial of licenses, and the discipline of

1 persons licensed under this chapter. The dental quality assurance
2 commission is the disciplining authority under this chapter.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.70
4 RCW to read as follows:

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

19 (2) A dental health aide therapist, employed or contracted to
20 perform services under this section may perform only those procedures
21 permitted under standards adopted by a federally authorized community
22 health aide program certification board or an Indian tribe that has
23 adopted equivalent or higher standards than those imposed by a
24 federally authorized community health aide program certification
25 board regarding scope of practice, continuing education, and
26 supervision requirements. A dental health aide therapist is subject
27 to any service limitations provided by the Indian health care
28 improvement act, 25 U.S.C. Sec. 16161. A dental health aide
29 therapist, is also subject to any applicable limitations written into
30 a practice agreement by the supervising dentist of the dental health
31 aide therapist.

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

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

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

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

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

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

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

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

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

15 (vii) A dental hygiene examining committee member;

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

18 (ix) The Washington dental hygienists' association;

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

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

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

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

25 (xiv) An urban Indian program dental clinic; and

26 (xv) The northwest Portland area Indian health board.

27 (b) The work group shall:

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

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

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

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

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

4 (6) This section expires December 1, 2017.

5 **Sec. 11.** RCW 18.32.030 and 2012 c 23 s 7 are each amended to
6 read as follows:

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

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

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

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

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

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

32 (6) The making, repairing, altering, or supplying of artificial
33 restorations, substitutions, appliances, or materials for the
34 correction of disease, loss, deformity, malposition, dislocation,
35 fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or
36 associated tissues or parts; providing the same are made, repaired,
37 altered, or supplied pursuant to the written instructions and order
38 of a licensed dentist which may be accompanied by casts, models, or
39 impressions furnished by the dentist, and the prescriptions shall be

1 retained and filed for a period of not less than three years and
2 shall be available to and subject to the examination of the secretary
3 or the secretary's authorized representatives;

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

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

12 (9) The performing of dental operations or services by registered
13 dental assistants and licensed expanded function dental auxiliaries
14 holding a credential issued under chapter 18.260 RCW when performed
15 under the supervision of a licensed dentist, by dental therapists
16 licensed under chapter 18.--- RCW (the new chapter created in section
17 21 of this act), or by other persons not licensed under this chapter
18 if the person is licensed pursuant to chapter 18.29, 18.57, 18.71, or
19 18.79 RCW as it applies to registered nurses and advanced registered
20 nurse practitioners, each while acting within the scope of the
21 person's permitted practice under the person's license: PROVIDED
22 HOWEVER, That such persons shall in no event perform the following
23 dental operations or services unless permitted to be performed by the
24 person under this chapter or chapters 18.29, 18.57, 18.71, 18.79 as
25 it applies to registered nurses and advanced registered nurse
26 practitioners, and 18.260 RCW:

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

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

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

35 (d) Any oral prophylaxis;

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

39 (10) The performing of dental services described in RCW
40 18.350.040 by dental anesthesia assistants certified under chapter

1 18.350 RCW when working under the supervision and direction of an
2 oral and maxillofacial surgeon or dental anesthesiologist.

3 **Sec. 12.** RCW 18.32.0351 and 2007 c 269 s 16 are each amended to
4 read as follows:

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

21 **Sec. 13.** RCW 18.120.020 and 2016 c 41 s 17 are each reenacted
22 and amended to read as follows:

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

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

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

36 (3) "Grandfather clause" means a provision in a regulatory
37 statute applicable to practitioners actively engaged in the regulated
38 health profession prior to the effective date of the regulatory

1 statute which exempts the practitioners from meeting the prerequisite
2 qualifications set forth in the regulatory statute to perform
3 prescribed occupational tasks.

4 (4) "Health professions" means and includes the following health
5 and health-related licensed or regulated professions and occupations:
6 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
7 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
8 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
9 dental anesthesia assistants under chapter 18.350 RCW; dispensing
10 opticians under chapter 18.34 RCW; hearing instruments under chapter
11 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
12 funeral directing under chapter 18.39 RCW; midwifery under chapter
13 18.50 RCW; nursing home administration under chapter 18.52 RCW;
14 optometry under chapters 18.53 and 18.54 RCW; ocularists under
15 chapter 18.55 RCW; osteopathic medicine and surgery under chapters
16 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW;
17 medicine under chapters 18.71 and 18.71A RCW; emergency medicine
18 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
19 practical nurses under chapter 18.79 RCW; psychologists under chapter
20 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
21 therapists licensed under chapter 18.59 RCW; respiratory care
22 practitioners licensed under chapter 18.89 RCW; veterinarians and
23 veterinary technicians under chapter 18.92 RCW; massage therapists
24 under chapter 18.108 RCW; East Asian medicine practitioners licensed
25 under chapter 18.06 RCW; persons registered under chapter 18.19 RCW;
26 persons licensed as mental health counselors, marriage and family
27 therapists, and social workers under chapter 18.225 RCW; dietitians
28 and nutritionists certified by chapter 18.138 RCW; radiologic
29 technicians under chapter 18.84 RCW; nursing assistants registered or
30 certified under chapter 18.88A RCW; reflexologists certified under
31 chapter 18.108 RCW; medical assistants-certified, medical assistants-
32 hemodialysis technician, medical assistants-phlebotomist, and medical
33 assistants-registered certified and registered under chapter 18.360
34 RCW; ~~(and)~~ licensed behavior analysts, licensed assistant behavior
35 analysts, and certified behavior technicians under chapter 18.380
36 RCW; and dental therapists licensed under chapter 18.--- RCW (the new
37 chapter created in section 21 of this act).

38 (5) "Inspection" means the periodic examination of practitioners
39 by a state agency in order to ascertain whether the practitioners'

1 occupation is being carried out in a fashion consistent with the
2 public health, safety, and welfare.

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

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

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

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

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

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

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

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

1 **Sec. 14.** RCW 18.130.040 and 2016 c 41 s 18 are each amended to
2 read as follows:

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

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

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

12 (ii) Midwives licensed under chapter 18.50 RCW;

13 (iii) Ocularists licensed under chapter 18.55 RCW;

14 (iv) Massage therapists and businesses licensed under chapter
15 18.108 RCW;

16 (v) Dental hygienists licensed under chapter 18.29 RCW;

17 (vi) East Asian medicine practitioners licensed under chapter
18 18.06 RCW;

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

21 (viii) Respiratory care practitioners licensed under chapter
22 18.89 RCW;

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

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

30 (xi) Persons registered as nursing pool operators under chapter
31 18.52C RCW;

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

34 (xiii) Dietitians and nutritionists certified under chapter
35 18.138 RCW;

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

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

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

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

5 (xviii) Surgical technologists registered under chapter 18.215
6 RCW;

7 (xix) Recreational therapists under chapter 18.230 RCW;

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

10 (xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

12 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;

13 (xxiv) Reflexologists certified under chapter 18.108 RCW;

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

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

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

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

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

26 (iii) The dental quality assurance commission as established in
27 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
28 licenses and registrations issued under chapter 18.260 RCW, licenses
29 issued under chapter 18.--- RCW (the new chapter created in section
30 21 of this act), and certifications issued under chapter 18.350 RCW;

31 (iv) The board of hearing and speech as established in chapter
32 18.35 RCW;

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

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

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

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

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

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

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

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

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

16 (xiv) The veterinary board of governors as established in chapter
17 18.92 RCW;

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

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

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

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

29 **Sec. 15.** RCW 18.260.010 and 2007 c 269 s 1 are each amended to
30 read as follows:

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

33 (1) "Close supervision" means that a supervising dentist or
34 dental therapist whose patient is being treated has personally
35 diagnosed the condition to be treated and has personally authorized
36 the procedures to be performed. The supervising dentist or dental
37 therapist is continuously on-site and physically present in the
38 treatment facility while the procedures are performed by the
39 assistive personnel and capable of responding immediately in the

1 event of an emergency. The term does not require a supervising
2 dentist or dental therapist to be physically present in the
3 operatory.

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

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

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

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

15 ~~((+5))~~ (6) "Department" means the department of health.

16 ~~((+6))~~ (7) "Expanded function dental auxiliary" means a person
17 who is licensed by the commission to provide supportive services to a
18 licensed dentist or dental therapist to the extent provided in this
19 chapter and under the specified level of supervision of a dentist or
20 dental therapist.

21 ~~((+7))~~ (8) "General supervision" means that a supervising
22 dentist or dental therapist has examined and diagnosed the patient
23 and provided subsequent instructions to be performed by the assistive
24 personnel, but does not require that the dentist or dental therapist
25 be physically present in the treatment facility.

26 ~~((+8))~~ (9) "Secretary" means the secretary of health.

27 ~~((+9))~~ (10) "Supervising dental therapist" means a dental
28 therapist licensed under chapter 18.--- RCW (the new chapter created
29 in section 21 of this act) who is responsible for providing the
30 appropriate level of supervision for dental assistants and expanded
31 function dental auxiliaries.

32 (11) "Supervising dentist" means a dentist licensed under chapter
33 18.32 RCW that is responsible for providing the appropriate level of
34 supervision for dental assistants and expanded function dental
35 auxiliaries.

36 **Sec. 16.** RCW 18.260.040 and 2015 c 120 s 3 are each amended to
37 read as follows:

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

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

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

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

14 (a) Any scaling procedure;

15 (b) Any oral prophylaxis, except coronal polishing;

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

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

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

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

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

32 **Sec. 17.** RCW 18.260.070 and 2007 c 269 s 6 are each amended to
33 read as follows:

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

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

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

7 (i) Performing coronal polishing;

8 (ii) Giving fluoride treatments;

9 (iii) Applying sealants;

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

12 (v) Giving patient oral health instruction; and

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

17 (i) Placing and carving direct restorations; and

18 (ii) Taking final impressions.

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

23 **Sec. 18.** RCW 18.260.080 and 2007 c 269 s 7 are each amended to
24 read as follows:

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

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

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

32 **Sec. 19.** RCW 69.41.010 and 2016 c 148 s 10 and 2016 c 97 s 2 are
33 each reenacted and amended to read as follows:

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

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

1 (a) A practitioner; or
2 (b) The patient or research subject at the direction of the
3 practitioner.

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

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

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

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

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

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

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

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

24 (10) "Drug" means:

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

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

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

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

38 (11) "Electronic communication of prescription information" means
39 the transmission of a prescription or refill authorization for a drug
40 of a practitioner using computer systems. The term does not include a

1 prescription or refill authorization transmitted verbally by
2 telephone nor a facsimile manually signed by the practitioner.

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

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

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

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

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

34 (17) "Practitioner" means:

35 (a) A physician under chapter 18.71 RCW, an osteopathic physician
36 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
37 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
38 under chapter 18.22 RCW, an East Asian medicine practitioner to the
39 extent authorized under chapter 18.06 RCW and the rules adopted under
40 RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a

1 registered nurse, advanced registered nurse practitioner, or licensed
2 practical nurse under chapter 18.79 RCW, an optometrist under chapter
3 18.53 RCW who is certified by the optometry board under RCW
4 18.53.010, an osteopathic physician assistant under chapter 18.57A
5 RCW, a physician assistant under chapter 18.71A RCW, a naturopath
6 licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64
7 RCW, or, when acting under the required supervision of a dentist
8 licensed under chapter 18.32 RCW, a dental hygienist licensed under
9 chapter 18.29 RCW or a dental therapist licensed under chapter 18.---
10 RCW (the new chapter created in section 21 of this act);

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

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

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

21 **Sec. 20.** RCW 69.41.030 and 2016 c 148 s 11 are each amended to
22 read as follows:

23 (1) It shall be unlawful for any person to sell, deliver, or
24 possess any legend drug except upon the order or prescription of a
25 physician under chapter 18.71 RCW, an osteopathic physician and
26 surgeon under chapter 18.57 RCW, an optometrist licensed under
27 chapter 18.53 RCW who is certified by the optometry board under RCW
28 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
29 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
30 18.92 RCW, a commissioned medical or dental officer in the United
31 States armed forces or public health service in the discharge of his
32 or her official duties, a duly licensed physician or dentist employed
33 by the veterans administration in the discharge of his or her
34 official duties, a registered nurse or advanced registered nurse
35 practitioner under chapter 18.79 RCW when authorized by the nursing
36 care quality assurance commission, a pharmacist licensed under
37 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
38 or protocols established under RCW 18.64.011 and authorized by the
39 commission and approved by a practitioner authorized to prescribe

1 drugs, an osteopathic physician assistant under chapter 18.57A RCW
2 when authorized by the board of osteopathic medicine and surgery, a
3 physician assistant under chapter 18.71A RCW when authorized by the
4 medical quality assurance commission, a dental therapist under
5 chapter 18.--- RCW (the new chapter created in section 21 of this
6 act) as authorized in section 5 of this act or any of the following
7 professionals in any province of Canada that shares a common border
8 with the state of Washington or in any state of the United States: A
9 physician licensed to practice medicine and surgery or a physician
10 licensed to practice osteopathic medicine and surgery, a dentist
11 licensed to practice dentistry, a podiatric physician and surgeon
12 licensed to practice podiatric medicine and surgery, a licensed
13 advanced registered nurse practitioner, a licensed physician
14 assistant, a licensed osteopathic physician assistant, or a
15 veterinarian licensed to practice veterinary medicine: PROVIDED,
16 HOWEVER, That the above provisions shall not apply to sale, delivery,
17 or possession by drug wholesalers or drug manufacturers, or their
18 agents or employees, or to any practitioner acting within the scope
19 of his or her license, or to a common or contract carrier or
20 warehouse operator, or any employee thereof, whose possession of any
21 legend drug is in the usual course of business or employment:
22 PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW
23 shall prevent a family planning clinic that is under contract with
24 the health care authority from selling, delivering, possessing, and
25 dispensing commercially prepackaged oral contraceptives prescribed by
26 authorized, licensed health care practitioners.

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

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

32 NEW SECTION. **Sec. 21.** Sections 1 through 9 of this act
33 constitute a new chapter in Title 18 RCW.

34 NEW SECTION. **Sec. 22.** The department of health and the dental
35 quality assurance commission shall adopt any rules necessary to
36 implement this act.

1 NEW SECTION. **Sec. 23.** Section 10 of this act is necessary for
2 the immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect immediately.

5 NEW SECTION. **Sec. 24.** Sections 1 through 9, 11 through 20, and
6 22 of this act take effect January 1, 2018.

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