

---

SENATE BILL 6103

---

State of Washington

62nd Legislature

2012 Regular Session

By Senators Keiser and Fraser

Read first time 01/11/12. Referred to Committee on Health & Long-Term Care.

AN ACT Relating to registration of reflexologists; amending RCW 18.130.040, 18.120.020, 18.108.030, and 18.108.050; and adding a new chapter to Title 18 RCW.

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

**NEW SECTION. Sec. 1** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Department" means the department of health.
- (2) "Reflexologist" means an individual who is registered under this chapter.
- (3) "Reflexology" means a health care service limited to the use of pressure applied to reflexes located on the feet, hands, and outer ears. Reflexology does not include the diagnosis or treatment for specific diseases, or joint manipulations.
- (4) "Reflexology business" means the operation of a business where reflexology is performed.
- (5) "Secretary" means the secretary of the department or the secretary's designee.

**NEW SECTION. Sec. 2** (1) No person may practice reflexology or represent oneself as a reflexologist by use of any title without being registered to practice by the department, unless otherwise exempted by this chapter.

(2) A person represents themselves as a reflexologist when the person adopts or uses any title in any description of services that incorporates one or more of the following terms or designations: Reflexologist, reflexology, foot pressure therapy, foot reflex therapy, or any derivation of those terms that implies a reflexology technique or method.

(3) A person registered as a reflexologist may not adopt or use any title or description of services, including for purposes of advertising, that incorporates one or more of the following terms or designations: Massage, masseuse, massager, massagist, masseur, myotherapist or myotherapy, touch therapist, body therapy or therapist, or any derivation of those terms that implies a massage technique or therapy unless the person is also licensed under chapter 18.108 RCW as a massage practitioner.

(4) It is unlawful to advertise the practice of reflexology in a display advertisement using the terms reflexology or any other term that implies reflexology technique or method without printing the registration number of the reflexologist.

**NEW SECTION. Sec. 3** Nothing in this chapter may be construed to prohibit or restrict the practice by an individual who is:

- (1) Licensed, certified, or registered under the laws of this state and performing services within the authorized scope of practice; or
- (2) Employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States.

**NEW SECTION. Sec. 4** In addition to any other authority, the secretary has the authority to:

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

- (2) Establish all registration and renewal fees in accordance with RCW 43.70.250;
- (3) Establish forms and procedures necessary to administer this chapter;
- (4) Register applicants who have met the requirements for registration and to deny registration to applicants who do not meet the requirements of this chapter, except that proceedings concerning the denial of registration based upon unprofessional conduct or impairment is governed by the uniform disciplinary act, chapter 18.130 RCW;
- (5) Hire clerical, administrative, investigative, and other staff as needed to implement and enforce this chapter; and
- (6) Maintain the official department record of all applicants and license holders.

**NEW SECTION. Sec. 5** (1) Applicants for registration under this chapter are subject to the grounds for denial of a registration under chapter 18.130 RCW.

(2) The secretary may issue a registration to an applicant who completes an application form that identifies the name and address of the applicant, the registration requested, and information required by the secretary necessary to establish whether there are grounds for denial of a registration.

**NEW SECTION. Sec. 6** Applications for registration must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for registration provided for in this chapter and chapter 18.130 RCW. Each applicant must pay a fee determined by the secretary under RCW 43.70.250. The fee must accompany the application.

**NEW SECTION. Sec. 7** The secretary must establish by rule the procedural requirements and fees for renewal of a registration. Failure to renew invalidates the registration and all privileges granted by the registration.

**NEW SECTION. Sec. 8** The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of a license, and the discipline of persons licensed under this chapter. The secretary is the disciplining authority under this chapter.

**NEW SECTION. Sec. 9** For the purposes of ascertaining violations of this chapter and chapter 18.130 RCW, the secretary shall have the authority to inspect the premises of any reflexology business establishment during hours such business is open. If the secretary is denied access to any premises or establishment the secretary may apply to any court of competent jurisdiction for a warrant authorizing access to such premises or establishment for such purposes. The court may, upon such application, issue a warrant for the purpose requested.

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

**Sec. 11** RCW 18.130.040 and 2011 c 41 s 11 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 operators 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 under chapter 18.88A RCW;

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

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

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

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

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

(xviii) Denturists licensed under chapter 18.30 RCW;

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

(xx) Surgical technologists registered under chapter 18.215 RCW;

(xxi) Recreational therapists (~~(under chapter 18.230 RCW)~~) under chapter 18.230 RCW;

(xxii) Animal massage practitioners certified under chapter 18.240 RCW;

(xxiii) Athletic trainers licensed under chapter 18.250 RCW;

(xxiv) Home care aides certified under chapter 18.88B RCW; (~~and~~)

(xxv) Genetic counselors licensed under chapter 18.290 RCW; and

(xxvi) Reflexologists registered under chapter 18.--- RCW (the new chapter created in section 15 of this act).

(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 and licenses and registrations issued under chapter 18.260 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 board of pharmacy 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; and
- (xv) The board of naturopathy established in chapter 18.36A 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. 12** RCW 18.120.020 and 2010 c 286 s 14 are each 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; 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; health care assistants under chapter 18.135 RCW; massage practitioners 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; ~~((and))~~ nursing assistants registered or certified under chapter 18.88A RCW; and reflexologists registered under chapter 18.--- RCW (the new chapter created in section 15 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) "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.

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

(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. 13** RCW 18.108.030 and 1995 c 198 s 15 are each amended to read as follows:

- (1) No person may practice or represent himself or herself as a massage practitioner without first applying for and receiving from the department a license to practice.
- (2) A person represents himself or herself as a massage practitioner when the person adopts or uses any title or any description of services that incorporates one or more of the following terms or designations: Massage, massage practitioner, massage therapist, massage therapy, therapeutic massage, massage technician, massage technology, massagist, masseur, masseuse, myotherapist or myotherapy, touch therapist, ((reflexologist,)) acupressurist, body therapy or body therapist, or any derivation of those terms that implies a massage technique or method.

**Sec. 14** RCW 18.108.050 and 2002 c 277 s 2 are each amended to read as follows:

This chapter does not apply to:

- (1) An individual giving massage to members of his or her immediate family;
- (2) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice;
- (3) Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;
- (4) Massage practiced at the athletic department of any school or college approved by the department by rule using recognized national professional standards;
- (5) Students enrolled in an approved massage school, approved program, or approved apprenticeship program, practicing massage techniques, incidental to the massage school or program and supervised by the approved school or program. Students must identify themselves as a student when performing massage services on members of the public. Students may not be compensated for the massage services they provide;
- (6) Individuals who have completed a somatic education training program approved by the secretary;
- (7) Persons who limit their practice to reflexology and are licensed to practice under chapter 18.--- RCW (the new chapter created in section 15 of this act). For purposes of this chapter, the practice of reflexology is limited to the hands, feet, and outer ears. The services provided by those who limit their practice to reflexology are not designated or implied to be massage or massage therapy.

**NEW SECTION.** **Sec. 15** Sections 1 through 10 of this act constitute a new chapter in Title 18 RCW.

--- END ---