

SENATE BILL REPORT

SB 5753

As Reported by Senate Committee On:
Health & Long Term Care, January 24, 2022

Title: An act relating to enhancing the capacity of health profession boards, commissions, and advisory committees.

Brief Description: Increasing board and commission capacities.

Sponsors: Senators Robinson and Lovick; by request of Department of Health.

Brief History:

Committee Activity: Health & Long Term Care: 1/21/22, 1/24/22 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Updates the member composition, quorum rules, and member qualification requirements for various health profession boards, commissions, and advisory committees.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5753 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Conway, Holy, Keiser, Randall, Rivers, Robinson, Sefzik and Van De Wege.

Minority Report: Do not pass.

Signed by Senator Padden.

Minority Report: That it be referred without recommendation.

Signed by Senator Muzzall, Ranking Member.

Staff: Julie Tran (786-7283)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: The Department of Health (DOH) certifies, licenses, and regulates health professions in Washington State. Most of these health professions are governed by a board, commission or advisory committee which are supported by DOH. Each health profession's scope of practice is defined in law, and must fully cover the costs of its licensing and disciplining activities through fees for licensing, renewal, registration, certification, and examination. All health professions are subject to the Uniform Disciplinary Act (UDA). Under the UDA, DOH or a professional board or commission may take disciplinary action against an individual licensed as a health professional for unprofessional conduct. Disciplining actions include fines, license revocations, and practice restrictions.

Compensation for Boards and Commissions. The Office of Financial Management (OFM) sets allowances for subsistence, lodging, and travel expenses for elective and appointive officials and state employees. The following part-time groups are identified as class one through class five for setting any additional compensation or allowances:

- class one includes groups which are established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity;
- class two groups include agricultural commodity boards or commissions;
- class three includes groups which have rulemaking authority, perform quasi-judicial functions, have responsibility for the administration or policy direction of a state agency or program, or perform regulatory or licensing functions with respect to a specific profession, occupation, business, or industry;
- class four includes groups that have rulemaking authority, perform quasi-judicial functions, or have responsibility for the administration or policy direction of a state agency or program; have duties deemed by the Legislature to be of overriding sensitivity and importance to the public welfare and operation of state government; and requires service from its members representing significant demand on their time that is normally in excess of 100 hours of meeting time per year; and
- class five includes commissions that have rulemaking authority, perform quasi-judicial functions, have responsibility for the policy direction of a health profession credentialing program, and perform regulatory and licensing functions with respect to a licensed health care profession.

Each member of a class five group is eligible to receive compensation not to exceed \$250 for each day that a member attends an official meeting or performs a duty approved by the chairperson of the group. Compensation is not given to a member for a day of service if that member occupies a full-time position in any agency of the federal, state, or local government; and receives any compensation from such government for working that day.

Summary of Bill (First Substitute): Member Composition. The Examining Board of Psychology member composition increases from nine to 11 members consisting of nine psychologists and two public members.

The State Board of Physical Therapy member composition increases from six to seven

members and consists of five licensed physical therapists, one licensed physical therapist assistant, and one member of the public. The professional members must have not less than five years experience and shall be actively engaged in practice within two years of appointment. All members must be Washington residents. No member may serve for more than two consecutive full four-year terms.

The Washington Dental Quality Assurance Commission member composition increases from 16 to 17 members, who serve four-year terms, and public members increase from two to three members.

The Washington Medical Commission (WMC) member composition must include two individuals who are Washington State licensed physician assistants. All professional members of the WMC must have been licensed to practice medicine in this state for at least five years.

The Veterinary Board of Governors (Veterinary Board) reflects the diverse practice of animal medicine, including large animal, small animal, and specialty practice, as well as diverse types of employment and practice ownership including sole proprietorships, partnerships, and corporations. The Veterinary Board's total members increase from seven to nine members consisting of six licensed veterinarians, one licensed veterinary technician, one member who may be a licensed veterinarian or a licensed veterinary technician, and one member of the public. Members may serve two consecutive full terms and each member's term is five years and until their successors are appointed and qualified. Not more than two licensed veterinary members may be from the same congressional district. Officers of the board include chair and vice chair positions. A licensed veterinary technician can serve as a voting member related to disciplining a veterinarian involving standard of care.

The Washington State Board of Massage members may serve no more than two successive full terms and the members composition increases from four to seven members consisting of:

- five Washington State licensed massage therapists, who must have been in the practice of massage for at least three years immediately preceding appointment and hold a current license at all times during their terms;
- one member who is a consumer and has an occupation that does not include the administration of health activities or provision of health services; and who has no material financial interest in the provision of health care services; and
- one member must be a massage educator or massage school owner with at least three years experience in teaching or administration of direct student learning of the practice of massage;
 - this member is not required to be a license massage therapist and the member must recuse themselves from any board deliberations or decision making involving the member's professionally affiliated school or educational program.

The Optometry Board members' requirement to have no connection with any school or

college embracing the teaching of optometry is removed.

Washington State Board of Nursing Home Administrators. The Washington State Board of Nursing Home Administrators (BNHA) member composition increases from nine to 11 individuals and instead of four members, six of those members:

- must be licensed with at least four years of actual experience and the experience does not have to be immediately preceding appointment to the board;
- may be employed by the state or federal government; and
- have at least one, but more than two, members must be an administrator of an assisted living facility or a continuing care retirement community.

BNHA membership must also include three, rather than four, representatives of the health care profession, which includes:

- a licensed health care professional providing medical or nursing services in nursing homes;
- faculty or administrators of educational institutions who have special knowledge of health care education, long-term care, or care of the aged or elderly; or
- persons currently employed in areas related to the long-term care field including, but not limited to, pharmacy, home health, adult family homes, or therapy services.

BNHA is required to have two members instead of one who are public members that must be residents of a nursing home or family members of nursing home residents or persons eligible for Medicare. BNHA members may not serve more than two consecutive full terms and clarifies that members serve until their successors are appointed. The language regarding current members to continue serving until the expiration of their appointment is removed.

Pharmacy Quality Assurance Commission. The Pharmacy Quality Assurance Commission's (Pharmacy Commission) executive director must be a pharmacist licensed in Washington State within 180 days of hire. The Pharmacy Commission may appoint members of at least three panels. A quorum for transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the Pharmacy Commission including, but not limited to, licensing, disciplinary, and adjudicative actions.

The Pharmacy Commission's hearings for the revocation or suspension of licenses, permits, registrations, certificates or any other authority to practice may be conducted by a presiding officer designated by the Pharmacy Commission and it may authorize the secretary or their designee, to serve as the presiding officer for any of its disciplinary proceedings. The presiding officer may not vote or make any final decision in cases relating to standards of practice or where clinical expertise is necessary.

Class Five Group Compensation Designations and Member Compensation. The following boards and commissions are designated as a class five group for compensation and

members will be compensated accordingly:

- Board of Denturists;
- Board of Hearing and Speech;
- Board of Naturopathy;
- Board of Occupational Therapy Practice;
- Examining Board of Psychology;
- Optometry Board;
- Pharmacy Quality Assurance Commission;
- Veterinary Board of Governors;
- Washington State Board of Massage;
- Washington State Board of Nursing Home Administrators; and
- Washington State Board of Physical Therapy.

Quorum Rule Changes. The following boards and commissions have quorum rules stating that a majority of members appointed and serving constitutes a quorum for the transaction of board and commission's business and a majority of a quorum of the board and commission's affirmative vote is required to carry a motion or resolution, to adopt a rule, or to pass a measure:

- Board of Hearing and Speech;
- Board of Denturists;
- Board of Occupational Therapy Practice;
- Examining Board of Psychology;
- Optometry Board;
- Pharmacy Quality Assurance Commission;
- Veterinary Board of Governors;
- Washington State Board of Osteopathic Medicine and Surgery;
- Washington State Board of Massage;
- Washington State Podiatric Medical Board;
- Washington State Board of Nursing Home Administrators; and
- Washington State Board of Physical Therapy.

Removal of the Requirement for Members to Be United States Citizens. The following boards, commissions, and advisory committees do not require the appointed members to be United States citizens:

- Advisory Committee on Orthotic and Prosthetic Services;
- Board of Optometry;
- Examining Board of Psychology;
- Pharmacy Quality Assurance Commission;
- Veterinary Board of Governors;
- Washington Medical Commission;
- Washington State Board of Nursing Home Administrators;
- Washington State Board of Osteopathic Medicine and Surgery;
- Washington State Chiropractic Quality Assurance Commission;
- Washington State Nursing Care Quality Assurance Commission; and

- Washington Dental Quality Assurance Commission.

Language relating to the initial appointed members have been removed relating to the following boards and commissions:

- Board of Hearing and Speech;
- Occupational Therapy Board;
- Optometry Board;
- Veterinary Board of Governors;
- Washington Medical Commission; and
- Washington Dental Quality Assurance Commission.

EFFECT OF CHANGES MADE BY HEALTH & LONG TERM CARE COMMITTEE (First Substitute):

- Removes the requirement that members of the Optometry Board have no connection with any school or college embracing the teaching of optometry.
- Clarifies that the Washington State Veterinary Board of Governors reflects the diverse practice of animal medicine, including large animal, small animal, and specialty practice, as well as diverse types of employment and practice ownership including sole proprietorships, partnerships, and corporations.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Membership requirements and qualifications, compensation rates, and term requirements for some health professions and boards have not changed over the years. This has created inconsistencies and inequities in both membership conditions and the ability to effectively meet disciplinary and policy development obligations. Membership requirements should better represent public members in diversity, geographic locations, as well as specialty areas in some professions. It is critical for the Veterinary Board to be made up of veterinarians who come from different sectors of the profession as it ensures better decision-making. This bill should include an amendment that would recognize other veterinary practices and veterinary owner types outside of large animals.

Persons Testifying: PRO: Senator June Robinson, Prime Sponsor; Greg Hanon, Washington State Veterinary Medical Association; Kelly Cooper, Washington State Department of Health.

Persons Signed In To Testify But Not Testifying: No one.