CERTIFICATION OF ENROLLMENT

**SECOND SUBSTITUTE SENATE BILL 5263**

Chapter 364, Laws of 2023

(partial veto)

68th Legislature

2023 Regular Session

PSILOCYBIN SERVICES—TASK FORCE AND PILOT PROGRAM

EFFECTIVE DATE: July 23, 2023—Except for section 6, which takes effect May 9, 2023.

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| Passed by the Senate April 14, 2023  Yeas 40 Nays 4  DENNY HECK  **President of the Senate**  Passed by the House April 11, 2023  Yeas 87 Nays 10  LAURIE JINKINS  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5263** as passed by the Senate and the House of Representatives on the dates hereon set forth.  SARAH BANNISTER  Secretary |
| Approved May 9, 2023 11:06 AM with the exception of sections 1, 2, 3, 4, 5, 7, 10, 11, and 13, which are vetoed. | May 10, 2023 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SECOND SUBSTITUTE SENATE BILL 5263**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Salomon, Rivers, Saldaña, Nobles, Lovick, Lovelett, Hunt, Hasegawa, Mullet, Trudeau, Robinson, Pedersen, Wellman, Muzzall, C. Wilson, Kuderer, Keiser, Liias, Van De Wege, Billig, Conway, and Frame)

AN ACT Relating to access to psilocybin services by individuals 21 years of age and older; adding a new chapter to Title 18 RCW; creating a new section; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature intends to establish an advisory board, interagency work group, and a task force to provide advice and recommendations on developing a comprehensive regulatory framework for access to regulated psilocybin for Washington residents who are at least 21 years of age.

NEW SECTION. **Sec.**  The legislature declares that the purposes of this chapter are:

(1) To develop a long-term strategic plan for ensuring that psilocybin services become and remain a safe, accessible, and affordable option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate or as part of their indigenous religious or cultural practices;

(2) To protect the safety, welfare, health, and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent, and rational way;

(3) To develop a comprehensive regulatory framework concerning psilocybin products and psilocybin services under state law;

(4) To prevent the distribution of psilocybin products to other persons who are not permitted to possess psilocybin products under this chapter including but not limited to persons under 21 years of age; and

(5) To prevent the diversion of psilocybin products from this state to other states.

NEW SECTION. **Sec.**  This chapter may be known and cited as the Washington psilocybin services act.

NEW SECTION. **Sec.**  (1) The Washington psilocybin advisory board is established within the department of health to provide advice and recommendations to the department of health, the liquor and cannabis board, and the department of agriculture. The Washington psilocybin advisory board shall consist of:

(a) Members appointed by the governor as specified in subsection (2) of this section;

(b) The secretary of the department of health or the secretary's designee;

(c) The state health officer or a physician acting as the state health officer's designee;

(d) A representative from the department of health who is familiar with public health programs and public health activities in this state; and

(e) A designee of the public health advisory board.

(2) The governor shall appoint the following individuals to the Washington psilocybin advisory board:

(a) Any four of the following:

(i) A state employee who has technical expertise in the field of public health;

(ii) A local health officer;

(iii) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;

(iv) An individual who is a member of, or who represents, a body that provides policy advice relating to substance use disorder policy;

(v) An individual who is a member of, or who represents, a body that provides policy advice relating to health equity;

(vi) An individual who is a member of, or who represents, a body that provides policy advice related to palliative care and quality of life; or

(vii) An individual who represents individuals who provide public health services directly to the public;

(b) A military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;

(c) A social worker, mental health counselor, or marriage and family therapist licensed under chapter 18.225 RCW;

(d) A person who has knowledge regarding the indigenous or religious use of psilocybin;

(e) A psychologist licensed under chapter 18.83 RCW who has professional experience engaging in the diagnosis or treatment of a mental, emotional, or behavioral condition;

(f) A physician licensed under chapter 18.71 RCW;

(g) A naturopath licensed under chapter 18.36A RCW;

(h) An expert in the field of public health who has a background in academia;

(i) Any three of the following:

(i) A person who has professional experience conducting scientific research regarding the use of psychedelic compounds in clinical therapy;

(ii) A person who has experience in the field of mycology;

(iii) A person who has experience in the field of ethnobotany;

(iv) A person who has experience in the field of psychopharmacology; or

(v) A person who has experience in the field of harm reduction;

(j) A person designated by the liquor and cannabis board who has experience working with the cannabis central reporting system developed for tracking the transfer of cannabis items;

(k) The attorney general or the attorney general's designee; and

(l) One, two, or three at large members.

(3)(a) Members of the Washington psilocybin advisory board shall serve for a term of four years, but at the pleasure of the governor. Before the expiration of the term of a member, the governor shall appoint a successor whose term begins on January 1st of the following year. A member is eligible for reappointment. If there is a vacancy for any cause, the governor shall make an appointment to become immediately effective for the unexpired term.

(b) Members of the board described in subsection (1)(b) through (e) of this section are nonvoting ex officio members of the board.

(4) A majority of the voting members of the board constitutes a quorum. Official adoption of advice or recommendations by the Washington psilocybin advisory board requires the approval of a majority of the voting members of the board.

(5) The board shall elect one of its voting members to serve as chair.

(6) Until July 1, 2024, the Washington psilocybin advisory board shall meet at least five times a calendar year at a time and place determined by the chair or a majority of the voting members of the board. After July 1, 2024, the board shall meet at least once every calendar quarter at a time and place determined by the chair or a majority of the voting members of the board. The board may meet at other times and places specified by the call of the chair or of a majority of the voting members of the board.

(7) The Washington psilocybin advisory board may adopt rules necessary for the operation of the board.

(8) The Washington psilocybin advisory board may establish committees and subcommittees necessary for the operation of the board.

(9) The members of the Washington psilocybin advisory board may receive reimbursement or an allowance for expenses within amounts appropriated for that specific purpose consistent with RCW 43.03.220.

NEW SECTION. **Sec.**  (1) An interagency psilocybin work group of the department of health, the liquor and cannabis board, and the department of agriculture is created to provide advice and recommendations to the advisory board on the following:

(a) Developing a comprehensive regulatory framework for a regulated psilocybin system, including a process to ensure clean and pesticide free psilocybin products;

(b) Reviewing indigenous practices with psilocybin, clinical psilocybin trials, and findings;

(c) Reviewing research of medical evidence developed on the possible use and misuse of psilocybin therapy; and

(d) Ensuring that a social opportunity program is included within any licensing program created under this chapter to remedy the targeted enforcement of drug-related laws on overburdened communities.

(2) The findings of the psilocybin task force in section 6 of this act must be submitted to the interagency work group created in this section and to the psilocybin advisory board.

(3) The interagency psilocybin work group must submit regular updates to the psilocybin advisory board.

NEW SECTION. **Sec.**  (1) The health care authority must establish a psilocybin task force to provide a report on psilocybin services. The director of the health care authority or the director's designee must be a member of the task force and serve as chair. The task force must also include, without limitation, the following members:

(a) The secretary of the department of health or the secretary's designee;

(b) The director of the liquor and cannabis board or the director's designee; and

(c) As appointed by the director of the health care authority, or the director's designee:

(i) A military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;

(ii) Up to two recognized indigenous practitioners with knowledge of the use of psilocybin or other psychedelic compounds in their communities;

(iii) An individual with expertise in disability rights advocacy;

(iv) A public health practitioner;

(v) Two psychologists with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(vi) Two mental health counselors, marriage and family therapists, or social workers with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(vii) Two physicians with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;

(viii) A health researcher with expertise in health equity or conducting research on psilocybin;

(ix) A pharmacologist with expertise in psychopharmacology;

(x) A representative of the cannabis industry with knowledge of regulation of medical cannabis and the cannabis business in Washington;

(xi) An advocate from the LGBTQIA community with knowledge of the experience of behavioral health issues within that community;

(xii) A member of the psychedelic medicine alliance of Washington; and

(xiii) Up to two members with lived experience of utilizing psilocybin.

(2) The health care authority must convene the first meeting of the task force by June 30, 2023.

(3) The health care authority must provide a final report to the governor and appropriate committees of the legislature by December 1, 2023, in accordance with RCW 43.01.036. The health care authority may form subcommittees within the task force and adopt procedures necessary to facilitate its work.

(4) The duties of the health care authority in consultation with the task force must include, without limitation, the following activities:

(a) Reviewing the available clinical information around specific clinical indications for use of psilocybin, including what co-occurring diagnoses or medical and family histories may exclude a person from use of psilocybin. Any review of clinical information should:

(i) Discuss populations excluded from existing clinical trials;

(ii) Discuss factors considered when approval of a medical intervention is approved;

(iii) Consider the diversity of participants in clinical trials and the limitations of each study when applying learnings to the population at large; and

(iv) Identify gaps in the clinical research for the purpose of identifying opportunities for investment by the state for the University of Washington, Washington State University, or both to consider studying.

(b) Reviewing and discussing regulatory structures for clinical use of psilocybin in Washington and other jurisdictions nationally and globally. This should include discussing how various regulatory structures do or do not address concerns around public health and safety the task force has identified.

(5) The department of health, liquor and cannabis board, and department of agriculture must provide subject matter expertise and support to the task force and any subcommittee meetings. For the department of health, subject matter expertise includes an individual or individuals with knowledge and experience in rule making, the regulation of health professionals, and the regulation of health facilities.

(6) Meetings of the task force under this section must be open to participation by members of the public.

(7) Task force members participating on behalf of an employer, governmental entity, or other organization are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(8) It is the legislature's intent that the provisions of this section supersede section 211(99), chapter 297, Laws of 2022.

(9) This section expires June 30, 2024.

NEW SECTION. **Sec.**  (1) The duties, functions, and powers of the department of health specified in this chapter include the following:

(a) To examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions including, but not limited to, addiction, depression, anxiety disorders, and end-of-life psychological distress, and the potential for psilocybin to promote community, address trauma, and enhance physical and mental wellness;

(b) To adopt, amend, or repeal rules necessary to carry out the intent and provisions of this chapter, including rules that the department of health considers necessary to protect the public health and safety;

(c) To exercise all powers incidental, convenient, or necessary to enable the department of health to administer or carry out this chapter or any other law of this state that charges the department of health with a duty, function, or power related to psilocybin products and psilocybin services. Powers described in this subsection include, but are not limited to:

(i) Issuing subpoenas;

(ii) Compelling the attendance of witnesses;

(iii) Administering oaths;

(iv) Certifying official acts;

(v) Taking depositions as provided by law; and

(vi) Compelling the production of books, payrolls, accounts, papers, records, documents, and testimony.

(2) The jurisdiction, supervision, duties, functions, and powers held by the department of health under this section are not shared by the pharmacy quality assurance commission under chapter 18.64 RCW.

NEW SECTION. **Sec.**  (1) Subject to amounts appropriated for this purpose, the psilocybin therapy services pilot program is established within, and administered by, the University of Washington department of psychiatry and behavioral sciences. No later than January 1, 2025, the University of Washington department of psychiatry and behavioral sciences must implement this section.

(2) The pilot program must:

(a) Offer psilocybin therapy services through pathways approved by the federal food and drug administration, to populations including first responders and veterans who are:

(i) 21 years of age or older; and

(ii) Experiencing posttraumatic stress disorder, mood disorders, or substance use disorders;

(b) Offer psilocybin therapy services facilitated by:

(i) An advanced social worker, independent clinical social worker, or mental health counselor licensed under chapter 18.225 RCW;

(ii) A physician licensed under chapter 18.71 RCW; or

(iii) A psychiatric advanced registered nurse practitioner licensed under chapter 18.79 RCW as defined in RCW 71.05.020;

(c) Ensure psilocybin therapy services are safe, accessible, and affordable;

(d) Require an initial assessment to understand participant goals and expectations, and assess the participant's history for any concerns that require further intervention or information before receiving psilocybin therapy services, and an integration session after receiving psilocybin therapy services; and

(e) Use outreach and engagement strategies to include participants from communities or demographic groups that are more likely to be historically marginalized and less likely to be included in research and clinical trials represented by race, sex, sexual orientation, socioeconomic status, age, or geographic location.

NEW SECTION. **Sec.**  Medical professionals licensed by the state of Washington shall not be subject to adverse licensing action for recommending psilocybin therapy services.

NEW SECTION. **Sec.**  (1) The liquor and cannabis board shall assist and cooperate with the department of health and the department of agriculture to the extent necessary to carry out their duties under this chapter.

(2) The department of agriculture shall assist and cooperate with the department of health to the extent necessary for the department of health to carry out the duties under this chapter.

NEW SECTION. **Sec.**  The department of health, the department of agriculture, and the liquor and cannabis board may not refuse to perform any duty under this chapter on the basis that manufacturing, distributing, dispensing, possessing, or using psilocybin products is prohibited by federal law.

NEW SECTION. **Sec.**  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.

NEW SECTION. **Sec.**  Sections 1 through 5 and 7 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec.**  Sections 4 through 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**--- END ---**

Passed by the Senate April 14, 2023.

Passed by the House April 11, 2023.

Approved by the Governor May 9, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 1, 2, 3, 4, 5, 7, 10, 11, and 13, Second Substitute Senate Bill No. 5263 entitled:

"AN ACT Relating to access to psilocybin services by individuals 21 years of age and older."

This bill takes important additional steps in exploring and understanding the potentials of psilocybin by continuing and supplementing the Health Care Authority's existing task force and by establishing a pilot program through the University of Washington.

Psilocybin has been shown to have the potential for use as a therapeutic for certain diagnosed clinical conditions, and I appreciate the need to find new treatment options for Washingtonians.

Sections 1, 2, and 3 detail the intent and purpose of the bill and also establish a short title for the legislation. However, changes were made to the legislation during the legislative process and these sections no longer align with the bill's content.

Section 4 establishes a psilocybin advisory board but does not specify the work that the board would be directed to undertake. In last year's budget, the Legislature established a task force to begin discussing psilocybin as a treatment, and that task force remains in place but has yet to complete its work. This advisory board's role is unclear while the existing task force continues its work. I encourage the Legislature, upon completion of the final report from the task force, to consider appropriate next steps for psilocybin treatment in Washington.

Section 5 establishes an interagency workgroup between the Department of Health, Department of Agriculture, and the Liquor and Cannabis Board to report to the advisory board established in section 4. Without the establishment of the advisory board, this interagency workgroup has no role. However, I understand the value of having our state agencies work together to understand what would be necessary for the state to consider advances in allowing psilocybin therapy. For that reason, I am directing the Department of Health, Department of Agriculture, and the Liquor and Cannabis Board to work together to identify what would be needed, including necessary public health safeguards and information technology systems, to consider allowing psilocybin treatment in Washington state.

Section 7 requires the Department of Health to post to their webpage certain information about psilocybin therapy and it also provides extensive authority for the agency to adopt rules and carry out powers related to psilocybin services. This bill does not establish a system for psilocybin services in Washington and therefore such authorities for the Department of Health are not needed to protect public health and safety.

Section 10 requires the Liquor and Cannabis Board to cooperate with the Departments of Health and Agriculture and for the Department of Agriculture to cooperate with Department of Health. This bill does not establish any activities for these agencies to engage in that may require cooperation as contemplated.

Section 11 prohibits these same state agencies from refusing to fulfill their duties established in this legislation on the basis that psilocybin remains prohibited by federal law. However, there are no required responsibilities for these agencies that would not be able to be conducted due to the prohibition of psilocybin at the federal level.

Section 13 establishes a new chapter for sections 1 through 5. However, sections 1 through 5 are no longer needed.

For these reasons I have vetoed Sections 1, 2, 3, 4, 5, 7, 10, 11, and 13 of Second Substitute Senate Bill No. 5263.

With the exception of Sections 1, 2, 3, 4, 5, 7, 10, 11, and 13, Second Substitute Senate Bill No. 5263 is approved."