

# HOUSE BILL REPORT

## 2SSB 5263

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### As Passed House - Amended:

April 11, 2023

**Title:** An act relating to access to psilocybin services by individuals 21 years of age and older.

**Brief Description:** Concerning access to psilocybin services by individuals 21 years of age and older.

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

### Brief History:

#### Committee Activity:

Health Care & Wellness: 3/24/23, 3/29/23 [DPA];

Appropriations: 4/1/23, 4/4/23 [DPA(HCW)].

#### Floor Activity:

Passed House: 4/11/23, 87-10.

### Brief Summary of Second Substitute Bill (As Amended by House)

- Establishes the Psilocybin Advisory Board (Board) within the Department of Health (DOH) to provide advice and recommendations to the DOH, the Liquor and Cannabis Board (LCB), and the Washington State Department of Agriculture (WSDA).
- Creates an Interagency Work Group of the DOH, the LCB, and the WSDA to provide advice and recommendations, in regular updates, to the Board on developing a comprehensive regulatory framework for a regulated psilocybin system, and other specified topics.
- Requires the Health Care Authority to establish a Psilocybin Task Force, which must provide a final report to the Governor and Legislature by

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*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.*

December 1, 2023, on specified topics including clinical information on psilocybin use and regulatory structures for clinical psilocybin use.

- Grants the DOH certain duties, functions, and powers relating to information regarding the safety and efficacy of using psilocybin to treat mental health conditions; rulemaking authority; and other specified powers relating to psilocybin.
- Establishes the Psilocybin Therapy Services Pilot Program within the University of Washington Department of Psychiatry and Behavioral Sciences.

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Bronoske, Davis, Graham, Macri, Maycumber, Orwall, Simmons, Stonier, Thai and Tharinger.

**Minority Report:** Do not pass. Signed by 1 member: Representative Harris.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Hutchins, Assistant Ranking Minority Member; Barnard and Mosbrucker.

**Staff:** Emily Poole (786-7106).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Health Care & Wellness. Signed by 23 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Couture, Davis, Fitzgibbon, Hansen, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Dye and Harris.

**Minority Report:** Without recommendation. Signed by 6 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler, Connors and Steele.

**Staff:** Lily Smith (786-7175).

### **Background:**

Psilocybin.

Psilocybin is a naturally occurring psychedelic compound that is found in over 200 species of fungi. Psilocybin is currently listed as a Schedule 1 controlled substance under the state and federal Uniform Controlled Substances Act. Ingestion of psilocybin may produce changes in perception, mood, and cognitive processes common to other psychedelic drugs, a class of naturally occurring and laboratory-produced substances, which includes mescaline, LSD, ecstasy (MDMA), and dimethyltryptamine (DMT). Psilocybin can be extracted or synthesized by chemical processes.

#### Psilocybin Work Group.

The 2022 Supplemental Operating Budget directed the Health Care Authority (HCA) to create a Psilocybin Work Group (HCA Work Group) to study and make recommendations to the Legislature regarding psilocybin services in the state. The HCA Work Group is tasked with reviewing:

- the Oregon Health Authority's proposed rules for the regulation of psilocybin;
- systems and procedures established by the Liquor and Cannabis Board (LCB) to monitor manufacturing, testing, and tracking of cannabis to determine suitability for use with psilocybin;
- the social opportunity program proposed in Senate Bill 5660 (2022) and methods to promote equitable access to a potential legal psilocybin industry;
- opportunities for development of expertise within the Department of Health (DOH); and
- options to integrate licensed behavioral health professionals into the practice of psilocybin therapy where appropriate.

The HCA Work Group issued a preliminary report in December 2022. The HCA Work Group must deliver its final report by December 1, 2023.

#### **Summary of Amended Bill:**

##### Psilocybin Advisory Board.

A Psilocybin Advisory Board (Board) is established within the DOH to provide advice and recommendations to the DOH, the LCB, and the Washington State Department of Agriculture (WSDA). The Board must consist of certain experts and agency officials, as well as various stakeholders appointed by the Governor, including, but not limited to:

- the Secretary of the DOH, the Attorney General, and the State Health Officer, or their designees;
- individuals with expertise in, or who represent a body that provides policy advice relating to, public health, health equity, palliative care, substance use disorder policy, and indigenous uses of psilocybin;
- a military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;
- a social worker, mental health counselor, or marriage and family therapist;
- an individual who is a member of, or who represents, a federally recognized tribe;
- a psychologist, a physician, and a naturopath licensed in Washington;

- individuals with experience in mycology, ethnobotany, psychopharmacology, harm reduction, or scientific research regarding the use of psychedelic compounds in clinical therapy; and
- an individual who has experience working with the Cannabis Central Reporting System.

The Board must elect one of its voting members to serve as chair. Members of the Board serve for a term of four years, but at the pleasure of the Governor. Until July 1, 2024, the Board is required to meet at least five times a calendar year. After July 1, 2024, the Board is required to meet at least once every calendar quarter. The Board may adopt rules necessary for the operation of the Board.

#### Interagency Psilocybin Work Group.

An Interagency Psilocybin Work Group (Interagency Work Group) of the DOH, the LCB, and the WSDA is created to provide advice and recommendations, in regular updates, to the Board on the following:

- developing a comprehensive regulatory framework for a regulated psilocybin system, including a process to ensure clean and pesticide-free psilocybin products;
- reviewing indigenous practices with psilocybin, clinical psilocybin trials, and findings;
- reviewing research of medical evidence developed on the possible use and misuse of psilocybin therapy; and
- ensuring that a social opportunity program is included within any psilocybin licensing program.

#### Psilocybin Task Force.

The HCA is required to establish a Psilocybin Task Force (Task Force) to provide a report on psilocybin services. The Director of the HCA or their designee must serve as the chair of the Task Force. The Task Force must also include:

- the Secretary of the DOH and the Director of the LCB or their designees; and
- the following individuals, as appointed by the Director of the HCA or their designee:
  - a military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;
  - up to two recognized indigenous practitioners with knowledge of the use of psilocybin in their communities;
  - an individual with expertise in disability rights advocacy;
  - a public health practitioner;
  - two psychologists, two physicians, and 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;
  - a health researcher with expertise in health equity or conducting research on psilocybin;
  - a pharmacologist with expertise in psychopharmacology;
  - a representative of the cannabis industry with knowledge of regulation of

- medical cannabis;
- an advocate from the LGBTQIA community;
- a member of the Psychedelic Medicine Alliance of Washington; and
- up to two members with lived experience of utilizing psilocybin.

The duties of the HCA, in consultation with the Task Force, include 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 include considerations regarding the diversity of participants and gaps in clinical research, among other considerations. The HCA, in consultation with the Task Force, must also review and discuss regulatory structures for clinical use of psilocybin in Washington and other jurisdictions.

The DOH, the LCB, and the WSDA must provide subject matter expertise to the Task Force and any subcommittee meetings. The HCA must provide a final report to the Governor and the Legislature by December 1, 2023.

#### Duties of the Department of Health.

The DOH has the following duties, functions, and powers:

- to examine, publish, and distribute available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions and the potential for psilocybin to promote physical and mental wellness;
- to adopt, amend, or repeal rules necessary to carry out its obligations relating to psilocybin, including rules that DOH considers necessary to protect the public health and safety; and
- to exercise all powers incidental, convenient, or necessary to enable the DOH to carry out its duties, functions, or powers related to psilocybin products and services.

#### Duties and Prohibitions of Other State Agencies.

The LCB and the WSDA are required to assist and cooperate with the DOH in carrying out its duties, and the DOH, WSDA, and LCB may not refuse to perform any of its duties on the basis that manufacturing, distributing, dispensing, possessing, or using psilocybin products is prohibited by federal law.

#### Protections.

Medical professionals licensed in Washington may not be subject to adverse licensing action for recommending psilocybin therapy services.

#### Pilot Program.

By January 1, 2025, the University of Washington Department of Psychiatry and Behavioral Sciences is required to establish and administer a Psilocybin Therapy Services Pilot Program (Pilot Program). The Pilot Program must:

- offer psilocybin therapy services through pathways approved by the federal Food and

- Drug Administration (FDA) to populations including first responders and veterans who are 21 years of age or older and experiencing posttraumatic stress disorder, mood disorders, or substance use disorders;
- offer psilocybin therapy services facilitated by certain types of health care professionals;
  - ensure psilocybin therapy services are safe, accessible, and affordable;
  - require an initial assessment before a participant receives psilocybin therapy services and an integration session after a participant receives psilocybin therapy services; and
  - 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.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Sections 4 through 6 of the bill contain an emergency clause and take effect immediately. The remainder of the bill takes effect 90 days after the adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Health Care & Wellness):**

(In support) Psilocybin has been used across cultures for thousands of years. It is only in the last 60 years that psilocybin has become illegal. Psilocybin is a nonaddictive compound, but it was categorized as a Schedule 1 drug during the culture war of the 1960s. The original bill was based on Oregon's wellness model, which is now in effect. Oregon's model is based on self-referral for psilocybin therapy services, but there is a screening in order to participate. Under Oregon's model, a license is required to manufacture or provide psilocybin, and certified trained facilitators guide individuals through the experience of consuming psilocybin at a service center. The bill has become a bill about studying psilocybin instead of creating a regulatory framework. There is a lot of evidence that psilocybin is an effective treatment, and there have been more studies on psilocybin than on many commercially available substances. Many people are hesitant to extend access to a Schedule 1 drug. It is important to provide access to psilocybin now. Mental health among veterans often goes untreated. Veterans need access to this type of treatment, and scientific studies and other state programs show that the treatment works. Washington should be a leader in providing veterans with the treatment that they need. There was an initial lack of input from the people who would benefit the most from access to psilocybin. There is a lack of diversity on the Psilocybin Task Force. Access to mental health resources is difficult for low-income individuals. A multipronged approach is necessary to solve organized retail crime, including strategies to address behavioral health issues.

(Opposed) The justification for using psychedelics is based on the theory that mind-altering drugs are needed to address chemical imbalances in the brain, but that theory has been

disproven. One recent study found that depression is not caused by chemical abnormalities in the brain, but advocates push forward like nothing has changed. The new trend of researching psychedelic chemicals to alter mental health is another example of over-relying on toxic chemicals. Micro-dosing can be helpful to veterans in distress by helping them sleep and keeping them off of opiates and other medications.

(Other) The bill should not refer to psilocybin as a medical treatment. Psilocybin has not been approved by the FDA as a medical treatment.

**Staff Summary of Public Testimony (Appropriations):**

(In support) There is a significant amount of data, science, and history on the benefits of psilocybin use. Psilocybin is a very benign substance with limited adverse effects. It can provide the same benefits as years of spiritual therapy. The amended version of the bill will not do much to advance these benefits. There is a current mental health crisis, and people need access to this treatment. While this treatment is available in other countries, there are high barriers to access and no equivalent in the United States. Veterans are exposed to many different pressures that can lead to a variety of injuries, and already have too many hoops to jump through to access treatment for post-traumatic stress disorder. This is a lifesaving therapy. The state could potentially save millions of dollars in services costs through greater use of psilocybin.

(Opposed) None.

**Persons Testifying (Health Care & Wellness):** (In support) Senator Jesse Salomon, prime sponsor; Mark Johnson, Washington Retail Association; Matthew Griffin; Kody Zalewski, Psychedelic Medicine Alliance of Washington; and Angela Barron.

(Opposed) Kelly Richardson, Citizens Commission on Human Rights Washington State; and Lauren Feringa, Hippie and a Veteran Foundation.

(Other) Avanti Bergquist, Washington State Psychiatric Association.

**Persons Testifying (Appropriations):** Matthew Griffin; Kody Zalewski, Psychedelic Medicine Alliance of Washington; and Corey Champagne.

**Persons Signed In To Testify But Not Testifying (Health Care & Wellness):** Mason Marks.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.