

HOUSE BILL REPORT

SSB 5753

As Passed House - Amended:

March 1, 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: Senate Committee on Health & Long Term Care (originally sponsored by Senators Robinson and Lovick; by request of Department of Health).

Brief History:

Committee Activity:

Health Care & Wellness: 2/16/22, 2/23/22 [DPA].

Floor Activity:

Passed House: 3/1/22, 57-41.

Brief Summary of Substitute Bill (As Amended by House)

- Modifies requirements regarding the membership, compensation, and meetings of various boards, commissions, and advisory committees that oversee health professions.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Cody, Chair; Bateman, Vice Chair; Bronoske, Davis, Macri, Riccelli, Simmons, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 6 members: Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Harris, Maycumber, Rude and Ybarra.

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.

Staff: Emily Poole (786-7106).

Background:

Regulation of Health Professions.

The Health Systems Quality Assurance Division of the Department of Health (DOH), directly or in coordination with various boards, commissions, and advisory committees, regulates health care providers in 85 professions in Washington. The DOH directly regulates 47 of these health professions, and 37 other professions are fully regulated in coordination with various boards and commissions. One board, the Board of Massage, has split authority with the DOH over its professions.

The DOH works with relevant boards and commissions to develop rules and standards of practice for regulation, credential health professionals, investigate complaints, take disciplinary action, and monitor health care providers' compliance with sanctions. General requirements pertaining to membership, compensation, and meetings of the boards and commissions are codified in statute.

The Uniform Disciplinary Act (UDA) provides the framework for the regulation and oversight of health care providers in Washington, and the Secretary of Health and the boards and commissions overseeing various health professions are charged with implementing the UDA.

Compensation for Boards and Commissions.

The Office of Financial Management provides compensation to members of certain part-time boards and commissions, depending on the classification of the board or commission as a class one, class two, class three, class four, or class five group. The following part-time groups are identified as class one through class five:

- class one includes groups that are established by the executive, legislative, or judicial branch to participate in state government and function primarily in an advisory, coordinating, or planning capacity;
- class two includes agricultural commodity boards or commissions;
- class three includes groups that 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 require service from members 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.

Members of class five groups are generally eligible to receive compensation of \$250 or less for each day during which the member attends an official meeting or performs statutorily prescribed duties, unless the member occupies a full-time government position and receives compensation for working during that same day.

Summary of Amended Bill:

Changes are made to the membership composition, compensation, and meeting requirements of 18 boards, commissions, and advisory committees that oversee health professions.

Membership Composition.

The membership composition of several boards and commissions is modified.

The Dental Quality Assurance Commission membership increases from 16 to 17 members, and the number of public members increases from two to three.

The Board of Nursing Home Administrators membership increases from 9 to 11 members. Members may not serve more than two consecutive full terms. Six, instead of four, members must be licensed nursing home administrators with at least four years of experience in the administration of a licensed nursing home. At least one, but not more than two, of the six administrator members must be an administrator of an assisted living facility or a continuing care retirement community. Two, instead of one, members must be public members who are residents of nursing homes or family members of nursing home residents or persons eligible for Medicare. Three, instead of four, members must be representatives of the following professions:

- licensed health care professionals providing medical or nursing services in nursing homes who are privately or self-employed;
- 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.

The Board of Physical Therapy membership increases from six to seven members, and five, instead of four, members must be physical therapists. Members may not serve for more than two consecutive full terms.

The Veterinary Board of Governors membership increases from seven to nine members. The number of members that must be licensed veterinarians increases from five to six. One

additional member may be either a licensed veterinarian or a licensed veterinary technician. A licensed veterinary technician can serve as a voting member with respect to board decisions related to the discipline of a veterinarian involving standard of care. It is required that the members reflect the diverse practice of animal medicine. No more than two members may be from the same congressional district. Members may serve two consecutive full terms.

The Board of Massage membership increases from four to seven members, five of which must be licensed massage therapists. One member must be a massage educator or massage school owner with at least three years' experience with direct student learning of the practice of massage. This additional member is not required to be a licensed massage therapist and must recuse themselves from any board deliberations or decision making involving the educational program with which they are professionally affiliated. Members may not serve more than two successive full terms.

The Examining Board of Psychology membership increases from nine to 11 members, and nine of the members must be psychologists.

Members of the Washington Medical Commission that are physician assistants must be licensed in Washington.

Other Changes to Group Leadership.

Conduct hearings held by the Pharmacy Quality Assurance Commission for the revocation or suspension of licenses or permits may be conducted by a presiding officer designated by the Pharmacy Quality Assurance Commission. The presiding officer may not vote on or make any final decision in cases pertaining to standards of practice or where clinical expertise is necessary. The executive officer of the Pharmacy Quality Assurance Commission is not required to be a licensed pharmacist.

The executive director of the Nursing Care Quality Assurance Commission is not required to have graduated from an approved nursing education program, be currently licensed as a registered nurse, have a minimum of eight years' experience in nursing, and have actively engaged in the practice of registered nursing or nursing education within the two years immediately before the time of appointment.

The Board of Osteopathic Medicine and Surgery, the Podiatric Medical Board, and the Veterinary Board of Governors are not required to elect a secretary from their members. The Veterinary Board of Governors is required to select a vice chair.

Member Compensation.

The following boards and commissions are designated as a class five group for purposes of compensation:

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

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 Nursing Home Administrators;
- Board of Optometry;
- Board of Osteopathic Medicine and Surgery;
- Chiropractic Quality Assurance Commission;
- Dental Quality Assurance Commission;
- Examining Board of Psychology;
- Nursing Care Quality Assurance Commission;
- Pharmacy Quality Assurance Commission;
- Veterinary Board of Governors; and
- Washington Medical Commission.

Quorum Rule Changes.

The following boards and commissions have quorum rules stating that a majority of the members appointed and serving constitutes a quorum for the transaction of board or commission business, and an affirmative vote of a majority of a quorum of the board 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 Massage;
- Board of Nursing Home Administrators;
- Board of Occupational Therapy;
- Board of Optometry;
- Board of Osteopathic Medicine and Surgery;
- Board of Physical Therapy;
- Examining Board of Psychology;
- Pharmacy Quality Assurance Commission;

- Podiatric Medical Board; and
- Veterinary Board of Governors.

The Pharmacy Quality Assurance Commission may appoint members of panels of at least three members. A quorum for the 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 Quality Assurance Commission.

Removal of Language Related to the Initial Appointed Members.

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

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

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 28, relating to the Board of Osteopathic Medicine and Surgery, which takes effect July 1, 2022.

Staff Summary of Public Testimony:

(In support) The requirements relating to membership conditions, compensation, and term limits for members of boards and commissions that oversee health professions have not evolved to reflect the growing number of providers and changing demands. The requirements have not evolved to allow for better representation of public members, different geographies, and specialty areas for some professions. This has created inconsistency and inequity in both membership conditions and the ability to meet discipline and policy development obligations. This bill protects the public and promotes quality care by ensuring commissions are able to carry out policy development and regulatory duties.

(Opposed) None.

Persons Testifying: Kelly Cooper, Washington State Department of Health.

Persons Signed In To Testify But Not Testifying: None.