

# SENATE BILL REPORT

## SSB 5753

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As Amended by House, 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 & Long Term Care: 1/21/22, 1/24/22 [DPS, DNP, w/oRec].

**Floor Activity:** Passed Senate: 2/2/22, 36-11.

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

**Brief Summary of First Substitute Bill**

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

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### 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.

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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.*

**Staff:** Julie Tran (786-7283)

**Background:** 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. 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 DOH over its professions.

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 (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.

Members of a class five group are generally eligible to receive compensation of \$250 or less 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 for working that same day.

**Summary of First Substitute Bill:** Changes are made to the membership composition, compensation, and meeting requirements of 18 boards, commissions, and advisory committees that oversee health professions.

Member Composition and Leadership Role Changes. The membership composition and leadership roles of several boards and commissions are modified.

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. Five

members must be Washington State licensed massage therapists, who 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 must be a consumer. who has an occupation that does not include the administration of health activities or provision of health services and does not have any material financial interest in the provision of health care services. 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.

The Nursing Care Quality Assurance Commission's Executive Director 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 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.

The Pharmacy Quality Assurance Commission's (Pharmacy Commission) executive director is not required to be a pharmacist licensed in Washington State. 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.

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 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.

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.

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.

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.

Removal of Language Related to the Initial Appointed Members. 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.

**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.

**EFFECT OF HOUSE AMENDMENT(S):**

- Removes the requirement that the executive officer of the Pharmacy Quality Assurance Commission must be a pharmacist licensed in Washington.
- Removes the requirement that the executive director of the Nursing Care Quality Assurance Commission must 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.