

FINAL BILL REPORT

2SSB 5263

PARTIAL VETO

C 364 L 23

Synopsis as Enacted

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).

Senate Committee on Labor & Commerce

Senate Committee on Ways & Means

House Committee on Health Care & Wellness

House Committee on Appropriations

Background: Psilocybin. Psilocybin is a naturally occurring, psychoactive chemical compound produced by over 200 species of mushrooms, many of which grow natively in the Pacific Northwest. Psilocybin is currently listed as a Schedule I controlled substance under the state and federal Uniform Controlled Substances Acts. 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, MDMA, and DMT. Psilocybin can be extracted or synthesized by chemical processes.

Psilocybin Work Group. The 2022 supplemental operating budget directed the Washington State 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:

- Oregon's psilocybin rules and assess the adaptation of similar laws and rules;
- the Liquor and Cannabis Board (LCB) systems and procedures to monitor manufacturing, testing, and tracking of cannabis to determine whether they are suitable for use with psilocybin;

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- the social opportunity program proposed in SB 5660 (2022), and recommend improvements or enhancements to promote equitable access to legal psilocybin; and
- options to integrate licensed behavioral health professionals into the practice of psilocybin therapy where appropriate.

The HCA Work Group met four times in 2022, currently has two meetings scheduled in 2023, and issued a preliminary report in December 2022. The HCA Work Group must deliver its final report by December 1, 2023.

Other States. On November 3, 2020, Oregon voters adopted Oregon Measure 109, a ballot initiative supported by 55.75 percent of the voters. Measure 109 legalizes psilocybin in Oregon law. On December 27, 2022, the Oregon Health Authority adopted final rules regulating the production of psilocybin products and the provision of psilocybin services in the state. The Oregon Health Authority began accepting applications for licensure on January 2, 2023.

On November 8, 2022, Colorado voters passed Proposition 122—or the Natural Medicine Health Act of 2022—a ballot initiative supported by 53.64 percent of the voters. Proposition 122 created a regulatory system, administered by the Colorado Department of Regulatory Agencies, to regulate the growth, distribution, and sale of certain hallucinogenic and entheogenic substances derived from plants and fungi. Proposition 122 decriminalized the personal use and possession, for individuals 21 years of age and older, of such substances that were previously-classified as Schedule I controlled substances under state law. While Measure 109 only included psilocybin and psilocyn, Proposition 122 includes other substances such as DMT, ibogaine, some mescaline, psilocybin, and psilocyn.

Summary: Psilocybin Task Force. HCA must establish a Psilocybin Task Force (Task Force). The director of HCA must be a member of the Task Force and serve as chair. The Task Force must also include, without limitation, the following members:

- the secretary of DOH or their designee;
- the director of LCB or their designee;
- as appointed by the director of HCA or their designee;
 1. a military veteran, or representative of an organization that advocates on behalf of military veterans, with knowledge of psilocybin;
 2. up to two recognized indigenous practitioners with knowledge of the use of psilocybin or other psychedelic compounds in their communities;
 3. an individual with expertise in disability rights advocacy;
 4. a public health practitioner;
 5. two psychologists with knowledge of psilocybin, experience in mental and behavioral health, or experience in palliative care;
 6. 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;
 7. two physicians with knowledge of psilocybin, experience in mental and

- behavioral health, or experience in palliative care;
8. a health researcher with expertise in health equity or conducting research on psilocybin;
 9. a pharmacologist with expertise in psychopharmacology;
 10. a representative of the cannabis industry with knowledge of regulation of medical cannabis and the cannabis business in Washington;
 11. an advocate from the LGBTQIA community with knowledge of the experience of behavioral health issues within that community;
 12. a member of the Psychedelic Medicine Alliance of Washington; and
 13. up to two members with lived experience of utilizing psilocybin.

The duties of the Task Force include, without limitation, the following activities:

- reviewing the available clinical information around specific clinical indications for the use of psilocybin, including what co-occurring diagnoses or medical and family histories may exclude a person from the use of psilocybin;
- reviewing clinical information which should:
 1. discuss populations excluded from existing clinical trials;
 2. discuss factors considered when approval of a medical intervention is approved;
 3. consider the diversity of participants in clinical trials and the limitations of each study when applying learnings to the population at-large;
 4. 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; and
- reviewing and discussing regulatory structures for clinical use of psilocybin in Washington and other jurisdictions nationally and globally, including how various regulatory structures do or do not address concerns around public health and safety the group has identified.

The Task Force must submit a final report to the Governor and Legislature by December 1, 2023.

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

Pilot Program. Subject to appropriation, by January 1, 2025, the University of Washington Department of Psychiatry and Behavioral Sciences must 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 to populations including first responders and veterans who are 21 years of age or older and are experiencing posttraumatic stress disorder, mood disorders, or substance use disorders;
- offer psilocybin therapy services facilitated by specified 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 afterward; and
- use outreach and engagement strategies to include participants from communities or demographic groups who are more likely to be historically marginalized and less likely to be included in research and clinical trials.

Votes on Final Passage:

Senate 41 7
 House 87 10 (House amended)
 Senate 40 4 (Senate concurred)

Effective: July 23, 2023
 May 9, 2023 (Section 6)

Partial Veto Summary:

- Removed the creation of a Psilocybin Advisory Board and Interagency Psilocybin Work Group.
- Eliminated the granting of certain duties, functions, and powers to DOH relative to psilocybin.
- Removed the requirement for the Washington State Department of Agriculture (WSDA) and LCB to cooperate with DOH to carry out the legislation.
- Eliminated the ability of WSDA, LCB, and DOH to refuse to fulfill specified duties based on psilocybin's legal status.