

4883

2011-2012 Regular Sessions

I N S E N A T E

April 28, 2011

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to requiring consumer representatives to be appointed to state boards for the professions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 6508 of the education law, as
2 amended by chapter 866 of the laws of 1980, is amended to read as
3 follows:

4 1. A board for each profession shall be appointed by the board of
5 regents on the recommendation of the commissioner for the purpose of
6 assisting the board of regents and the department on matters of profes-
7 sional licensing, practice, and conduct. The composition of each board
8 shall be as prescribed in the article relating to each profession,
9 EXCEPT AS PROVIDED IN SUBDIVISION ONE-A OF THIS SECTION. Within each
10 board a committee on licensing may be appointed by the board chairman.

11 [Except as provided in paragraph (a) of this subdivision, the member-
12 ship of each professional licensing board shall be increased by one
13 member, and each such board shall have at least one public represen-
14 tative who shall be selected by the board of regents from the general
15 public.

16 a. The membership of the professional licensing boards created under
17 sections sixty-five hundred twenty-three, sixty-eight hundred four,
18 sixty-nine hundred three, and seventy-four hundred three of this chapter
19 shall be increased by two members, and each such board shall have at
20 least two public representatives, who shall be selected by the board of
21 regents from the general public.

22 b. For the purposes of this title, a "public representative" shall be
23 a person who is a consumer of services provided by those licensed or
24 otherwise supervised or regulated by the boards created hereunder, and]

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 1-A. CONSUMER REPRESENTATIVES. EACH BOARD SHALL HAVE THREE CONSUMER
2 REPRESENTATIVES APPOINTED TO THREE-YEAR TERMS IN THE FOLLOWING MANNER:
3 ONE SHALL BE APPOINTED BY THE GOVERNOR, ONE SHALL BE APPOINTED BY THE
4 TEMPORARY PRESIDENT OF THE SENATE, AND ONE SHALL BE APPOINTED BY THE
5 SPEAKER OF THE ASSEMBLY. NO CONSUMER REPRESENTATIVE SHALL SERVE FOR MORE
6 THAN TWO CONSECUTIVE THREE-YEAR TERMS. EACH CONSUMER REPRESENTATIVE
7 SHALL BE A VOTING MEMBER OF THEIR RESPECTIVE BOARD. THE BOARD OF REGENTS
8 SHALL STAGGER THE TERMS OF CONSUMER REPRESENTATIVES. THE CONSUMER REPRE-
9 SENTATIVES shall not be, nor within five years immediately preceding
10 appointment have been:

11 (i) a licensee or person otherwise subject to the supervision or regu-
12 lation of the board to which appointed; or

13 (ii) a person maintaining a contractual relationship with a licensee
14 of such board, which would constitute more than two percentum of the
15 practice or business of any such licensee, or an officer, director, or
16 representative of such person or group of persons.

17 S 2. Section 6733 of the education law, as added by chapter 618 of the
18 laws of 1980, is amended to read as follows:

19 S 6733. State board for physical therapy. A state board for physical
20 therapy shall be appointed by the board of regents on recommendation of
21 the commissioner for the purpose of assisting the board of regents and
22 the department on matters of professional licensing and professional
23 conduct in accordance with section sixty-five hundred eight of this
24 title. The board shall be composed of not less than eight licensed
25 physical therapists [and not less than one public representative]. An
26 executive secretary to the board shall be appointed by the board of
27 regents on recommendation of the commissioner.

28 S 3. Section 6954 of the education law, as added by chapter 327 of the
29 laws of 1992, paragraph (a) of subdivision 2 as amended by chapter 328
30 of the laws of 1992, is amended to read as follows:

31 S 6954. State board of midwifery. 1. The state board of midwifery
32 shall be appointed by the board of regents on recommendation of the
33 commissioner for the purpose of assisting the board of regents on
34 matters of professional licensing and professional conduct in accordance
35 with section sixty-five hundred eight of this title. The board shall be
36 composed of [thirteen] TWELVE individuals. Initial appointments to the
37 board shall be such that the terms shall be staggered. However, no
38 members shall serve more than two terms.

39 2. (a) (1) Seven members of the board shall be persons licensed or
40 exempt under this section.

41 (2) One member of the board shall be an educator of midwifery.

42 (b) Two members of the board shall be individuals who are licensed
43 physicians who are also certified as obstetrician/gynecologists by a
44 national certifying body.

45 (c) One member of the board shall be an individual licensed as a
46 physician who practices family medicine including obstetrics.

47 (d) One member of the board shall be an individual licensed as a
48 physician who practices pediatrics.

49 [(e) One member of the board shall be an individual not possessing
50 either licensure or training in medicine, midwifery, pharmacology or
51 nursing and shall represent the public at large.]

52 3. For purposes of this article, "board" means the state board of
53 midwifery created under this section unless the context clearly indi-
54 cates otherwise.

55 S 4. Section 7703 of the education law, as amended by chapter 230 of
56 the laws of 2004, is amended to read as follows:

1 S 7703. State board for social work. A state board for social work
2 shall be appointed by the board of regents on recommendation of the
3 commissioner for the purpose of assisting the board of regents and the
4 department on matters of professional licensing, practice, and conduct
5 in accordance with section sixty-five hundred eight of this title. The
6 board shall be composed of not less than [twelve] TEN members, of which
7 five shall be licensed clinical social workers[,] AND five shall be
8 licensed master social workers [and two members of the public]. Members
9 of the first board need not be licensed prior to their appointment to
10 the board. The terms of the first appointed members shall be staggered
11 so that four are appointed for three years, four are appointed for four
12 years, and four are appointed for five years. An executive secretary to
13 the board shall be appointed by the board of regents on recommendation
14 of the commissioner and shall be licensed pursuant to this article.

15 S 5. Section 8003 of the education law, as amended by chapter 282 of
16 the laws of 1992, is amended to read as follows:

17 S 8003. State board for dietetics and nutrition. A state board for
18 dietetics and nutrition shall be appointed by the board of regents, on
19 recommendation of the commissioner, for the purpose of assisting the
20 board of regents and the department on matters of certification and
21 professional conduct in accordance with section sixty-five hundred eight
22 of this chapter.

23 The board shall consist of not less than [thirteen] TEN members, [ten]
24 ALL of whom shall be certified dietitians or certified nutritionists,
25 except that the members of the first board need not be certified but
26 shall be persons who are eligible for certification under the provisions
27 of this article prior to their appointment to the board. The first
28 board, with respect to members representing the profession, shall
29 consist of five members registered by a national dietetic association
30 having registration standards acceptable to the department and five
31 members who are members of or registered by a national nutritional asso-
32 ciation having membership and/or registration standards acceptable to
33 the department. Thereafter, members of the profession appointed to such
34 board shall be certified pursuant to this article. To the extent
35 reasonable, the board of regents should insure the state board is broad-
36 ly representative of various professional interests within the dietetic
37 and nutritional community. [Three members shall be representatives of
38 the general public.] An executive secretary to the board shall be
39 appointed by the board of regents on the recommendation of the commis-
40 sioner.

41 S 6. Subdivision 1 of section 8213 of the education law, as added by
42 chapter 772 of the laws of 1990, is amended to read as follows:

43 (1) There is hereby established within the department a state board
44 for acupuncture. The board shall consist of not less than [eleven] EIGHT
45 members to be appointed by the board of regents on the recommendation of
46 the commissioner for the purpose of assisting the board of regents and
47 the department on matters of professional licensing and professional
48 conduct in accordance with section sixty-five hundred eight of this
49 chapter, four of whom shall be licensed acupuncturists[,] AND four of
50 whom shall be licensed physicians certified to use acupuncture [and
51 three of whom shall be public members representing the consumer and
52 community]. Of the acupuncturists first appointed to the board, one may
53 be a registered specialist's assistant-acupuncture provided that the
54 term of such registered specialist's assistant-acupuncture shall not be
55 more than four years. Of the members first appointed, three shall be
56 appointed for a one year term, three shall be appointed for a two year

term and three shall be appointed for a three year term, and two shall be appointed for a four year term. Thereafter all members shall serve for five year terms. In the event that more than [eleven] EIGHT members are appointed, a majority of the additional members shall be licensed acupuncturists. The members of the board shall select one of themselves as chairman to serve for a one year term.

S 7. Section 8304 of the education law, as added by chapter 905 of the laws of 1990, is amended to read as follows:

S 8304. State board for interior design. 1. A state board for interior or design shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of certification and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of [nine] EIGHT members, four of whom shall be interior designers certified in this state, two of whom shall be licensed architects who practice primarily interior design in this state, one who shall be a professional engineer in this state with an expertise in interior design, AND one who shall be a full-time interior design educator in this state [and one who shall be the public representative]. Notwithstanding the foregoing, the members of the first board who are interior designers need not be certified prior to their appointment to the board.

2. Two interior designers and a licensed architect who practices primarily interior design shall serve initial five year terms. Two interior designers and a professional engineer with an expertise in interior design shall serve initial four year terms. One licensed architect who practices primarily interior design[,] AND the interior design educator[, and the public representative] shall serve initial two year terms. Following the establishment of the initial membership of the board, all succeeding appointments shall be for five year terms. Any vacancy on the board shall be filled by appointment for the remainder of such member's terms in accordance with the provisions of this section.

S 8. Section 8406 of the education law, as added by chapter 676 of the laws of 2002, is amended to read as follows:

S 8406. State board for mental health practitioners. A state board for mental health practitioners shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of licensing and regulation. The board shall be composed of at least three licensed members from each profession licensed pursuant to this article [and at least three public representatives who do not hold interests in the organization, financing, or delivery of mental health services]. Additionally, the board shall contain one physician who shall be a psychiatrist. Members of the first board need not be licensed prior to their appointment to the board. The terms of the first appointed members shall be staggered so that [five] FOUR are appointed for three years, [five] FOUR are appointed for four years, and [six] FIVE are appointed for five years. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

S 9. Section 8503 of the education law, as added by chapter 817 of the laws of 1992, is amended to read as follows:

S 8503. State board for respiratory therapy. A state board for respiratory therapy shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and conduct in accordance with section sixty-five hundred eight of this

1 title. The board shall be composed of not less than five licensed
2 respiratory therapists, two licensed respiratory therapy technicians,
3 and [four] THREE additional members who shall include at least one
4 licensed physician [and at least one public member]. Members of the
5 first board who are respiratory therapy practitioners need not be
6 licensed prior to appointment on the board, provided, however, that the
7 first appointed respiratory therapists shall be registered by a national
8 certifying or accrediting board, acceptable to the department and the
9 first appointed respiratory therapy technicians shall be certified by a
10 national certifying or accrediting board, acceptable to the department.
11 An executive secretary to the board shall be appointed by the board of
12 regents on recommendation of the commissioner.

13 S 10. Section 8704 of the education law, as added by chapter 495 of
14 the laws of 2001, is amended to read as follows:

15 S 8704. State committee for medical physics. 1. A state committee for
16 medical physics shall be appointed by the board of regents upon the
17 recommendation of the commissioner and shall assist on matters of licen-
18 sure and professional conduct in accordance with section sixty-five
19 hundred eight of this title. Notwithstanding the provisions of section
20 sixty-five hundred eight of this title, the committee shall assist the
21 board for medicine solely in medical physics matters, which board shall
22 also function as the state board for medical physics. The licensure
23 requirements for professional medical physicists shall be waived for the
24 initial committee appointees, provided that such appointees shall have
25 received national certification in their specialty.

26 2. The committee shall consist of [eight] SEVEN individuals, to be
27 composed of the following:

28 (a) Four licensed medical physicists represented by each of the
29 following specialties:

- 30 (i) diagnostic radiological physics,
31 (ii) therapeutic radiological or radiation oncology physics,
32 (iii) medical nuclear physics, and
33 (iv) medical health physics; AND

34 (b) Three licensed physicians represented by each of the following
35 specialties:

- 36 (i) diagnostic radiology,
37 (ii) radiation therapy or radiation oncology, and
38 (iii) nuclear medicine[; and
39 (c) A representative of the public at large].

40 S 11. This act shall take effect on the one hundred eightieth day
41 after it shall have become a law.