S T A T E O F N E W Y O R K

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:

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

1. A board for each profession 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, practice, and conduct. The composition of each board shall be as prescribed in the article relating to each profession, EXCEPT AS PROVIDED IN SUBDIVISION ONE-A OF THIS SECTION. Within each board a committee on licensing may be appointed by the board chairman.

[Except as provided in paragraph (a) of this subdivision, the membership of each professional licensing board shall be increased by one member, and each such board shall have at least one public representative who shall be selected by the board of regents from the general public.

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

b. For the purposes of this title, a "public representative" shall be a person who is a consumer of services provided by those licensed or 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-A. CONSUMER REPRESENTATIVES. EACH BOARD SHALL HAVE THREE CONSUMER REPRESENTATIVES APPOINTED TO THREE-YEAR TERMS IN THE FOLLOWING MANNER: ONE SHALL BE APPOINTED BY THE GOVERNOR, ONE SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, AND ONE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY. NO CONSUMER REPRESENTATIVE SHALL SERVE FOR MORE THAN TWO CONSECUTIVE THREE-YEAR TERMS. EACH CONSUMER REPRESENTATIVE SHALL BE A VOTING MEMBER OF THEIR RESPECTIVE BOARD. THE BOARD OF REGENTS SHALL STAGGER THE TERMS OF CONSUMER REPRESENTATIVES. THE CONSUMER REPRESENTATIVES shall not be, nor within five years immediately preceding appointment have been:

(i) a licensee or person otherwise subject to the supervision or regulation of the board to which appointed; or

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

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

S 6733. State board for physical therapy. A state board for physical therapy 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 professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eight licensed physical therapists [and not less than one public representative]. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

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

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

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

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

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

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

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

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

3. For purposes of this article, "board" means the state board of midwifery created under this section unless the context clearly indicates otherwise.

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

S 7703. State board for social work. A state board for social work 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 professional licensing, practice, and conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than [twelve] TEN members, of which five shall be licensed clinical social workers[,] AND five shall be licensed master social workers [and two members of the public]. 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 four are appointed for three years, four are appointed for four years, and four are appointed for five years. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be licensed pursuant to this article.

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

S 8003. State board for dietetics and nutrition. A state board for dietetics and nutrition 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 chapter.

The board shall consist of not less than [thirteen] TEN members, [ten] ALL of whom shall be certified dietitians or certified nutritionists, except that the members of the first board need not be certified but shall be persons who are eligible for certification under the provisions of this article prior to their appointment to the board. The first board, with respect to members representing the profession, shall consist of five members registered by a national dietetic association having registration standards acceptable to the department and five members who are members of or registered by a national nutritional association having membership and/or registration standards acceptable to the department. Thereafter, members of the profession appointed to such board shall be certified pursuant to this article. To the extent reasonable, the board of regents should insure the state board is broadly representative of various professional interests within the dietetic and nutritional community. [Three members shall be representatives of the general public.] An executive secretary to the board shall be appointed by the board of regents on the recommendation of the commissioner.

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

(1) There is hereby established within the department a state board for acupuncture. The board shall consist of not less than [eleven] EIGHT members to 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 professional conduct in accordance with section sixty-five hundred eight of this chapter, four of whom shall be licensed acupuncturists[,] AND four of whom shall be licensed physicians certified to use acupuncture [and three of whom shall be public members representing the consumer and community]. Of the acupuncturists first appointed to the board, one may be a registered specialist's assistant-acupuncture provided that the term of such registered specialist's assistant-acupuncture shall not be more than four years. Of the members first appointed, three shall be 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 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

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

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

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

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

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

(i) diagnostic radiological physics,

(ii) therapeutic radiological or radiation oncology physics,

(iii) medical nuclear physics, and

(iv) medical health physics; AND

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

(i) diagnostic radiology,

(ii) radiation therapy or radiation oncology, and

(iii) nuclear medicine[; and

(c) A representative of the public at large].

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