

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

**CITIZEN MEMBERS ON  
REGULATORY BOARDS**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**Senate Document No. 10**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1984**

## **MEMBERS OF COMMITTEE\*\***

Senator Adelard L. Brault, Chairman  
Delegate Benjamin J. Lambert, III, Vice-Chairman  
Ms. Barbara Bitters  
Delegate Robert L. Bloxom  
Mr. A. C. Epps, Sr.  
Delegate Willard R. Finney  
Senator Stanley C. Walker

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## **STAFF**

### **Legal and Research**

Division of Legislative Services  
Angela P. Bowser, Staff Attorney  
E. Gayle Nowell, Research Associate  
Cheryl Cashman, Secretary

### **Administrative and Clerical**

Office of the Clerk, Senate of Virginia  
\*\*Delegate Thomas W. Moss, Jr., was an initial member of this subcommittee. He was replaced by Delegate Finney due to a change in standing committee assignments.

**Report of the  
Joint Subcommittee Studying**

**Citizen Members on Regulatory Boards  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
October, 1983**

To: The Honorable Charles S. Robb, Governor of Virginia  
and  
The General Assembly of Virginia

**INTRODUCTION**

In order to address concerns expressed pertaining to the desirability of placing citizen or public members on occupational regulatory boards, the 1982 General Assembly adopted the following resolution, Senate Joint Resolution No. 73, which established a two-year study subcommittee.

**SENATE JOINT RESOLUTION NO. 73**

Requesting that a joint subcommittee study the feasibility of having citizen members on all regulatory boards granting licenses.

WHEREAS, the General Assembly recognizes the valuable input citizen members can make and have made on regulatory boards; and

WHEREAS, many regulatory boards in the Commonwealth have included or are composed of citizen members in the board's composition whose contributions to the Commonwealth have been invaluable; and

WHEREAS, the participation by citizen members on certain regulatory boards would result in the expression of diverse perspectives on the regulation of the industry or profession; and

WHEREAS, by law certain regulatory boards issuing licenses are composed exclusively of members of the profession or professions they regulate; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That there is hereby created a joint subcommittee to study the feasibility of having citizen members on certain regulatory boards currently composed of practitioners of the regulated profession or professions; and, be it

RESOLVED FURTHER, That the joint subcommittee shall consist of seven members, one of whom shall be a member of the Senate General Laws Committee; one of whom shall be a member of the Senate Education and Health Committee; two of whom shall be members of the House General Laws Committee; one of whom shall be a member of the House Health, Welfare and Institutions Committee; and two of whom shall be citizen members.

The Speaker shall appoint the three members from the House Committees and one citizen member. The Chairman of the Senate Privileges and Elections Committee shall appoint the two members from the Senate Committees and one citizen member.

The joint subcommittee shall complete its study in time to submit recommendations to the 1984 Session of the General Assembly.

The cost of this study shall not exceed \$3,500.

The following individuals were appointed to serve on the subcommittee. Senator Adeland L. Brault and Senator Stanley C. Walker represented the General Laws Committee and the Education and Health Committee of the Senate. Delegates Robert L. Bloxom, Benjamin J. Lambert, III, and Thomas W. Moss, Jr., were appointed to represent the General Laws Committee and the Health, Welfare and Institutions Committee of the House of Delegates. Due to a change in standing committee assignments during the 1983 Session of the General Assembly, Delegate Willard R. Finney replaced Delegate Moss on the subcommittee. Ms. Barbara Bitters and Mr. A. C. Epps, Sr., served on the subcommittee as citizen members. Senator Brault was elected Chairman of the subcommittee and Delegate Lambert served as Vice-Chairman.

### **BACKGROUND**

In recent years a growing number of states have established occupational regulating and licensing boards composed of practitioners and lay persons. This trend is reflected in some of the occupational boards in Virginia which have lay persons among their membership.

During the 1974 Session of the General Assembly, legislation was passed which provided for the placement of two citizen members on newly established occupational regulatory boards. Currently nine occupational boards within the Department of Commerce have at least one citizen member each, and one of the eleven boards within the Department of Health Regulatory Boards has citizen members.

Senate Joint Resolution No. 73 mandated that the subcommittee study the feasibility of placing citizen members on all occupational regulatory boards. As a result, a majority of the boards within the Department of Commerce which were established prior to 1974 and the ten boards within the Department of Health Regulatory Boards without citizen members were targeted by the subcommittee for this study.

### **ACTIVITIES AND FINDINGS**

The subcommittee held several meetings and public hearings during its two-year study. Comments were received from a variety of individuals, including occupational board members, professional organizations, special interest groups and representatives of the Virginia State Bar. The subcommittee was also fortunate to have the expertise and assistance of Mr. Bernard L. Henderson, Jr., Director of the Department of Commerce, and Mr. H. Bryan Tomlinson, II, Director of the Department of Health Regulatory Boards. In addition, the subcommittee had the benefit of a presentation by staff members of the Joint Legislative Audit and Review Commission (JLARC) and two recent JLARC reports on occupational and professional regulatory boards, Senate Document No. 29 (1982) and Senate Document No. 3 (1983).

Persons supporting the proposition of placing citizen members on regulatory boards cited some of the following reasons for the subcommittee's consideration. They referred to the success of those boards currently composed of practitioners and citizen members. Public board members offer different perspectives and are also useful in informing the general public. Although boards regulate members of professions, they also have a duty to protect the public. Those selected to serve as citizen members on boards should have some familiarity with the profession regulated so that the tendency to defer to the expertise of the practitioners would be lessened. It is sometimes difficult for practitioners not to defend and sympathize with their colleagues in a conflict with a consumer or member of the public. There is increased confidence in boards which have public members.

The subcommittee was also informed of a recent Arkansas bill which mandated the representation of senior citizens on boards and commissions in Arkansas. Senior citizens and retired persons have a wealth of knowledge and time they are willing to give to the Commonwealth. A majority of the other states effectively utilize public or consumer membership on their professional regulatory boards, and Virginia should do the same.

Due to the workload of most of the boards, several speakers suggested that the subcommittee consider adding citizen members to boards without replacing or removing any of the practitioner members. All practitioners currently serving on boards which examine applicants for licensure

are needed to compose and grade the examinations and to keep the workload tolerable.

Testimony was also received from persons who did not favor the inclusion of citizen members on regulatory boards. They argued that citizen members (i) would have little input in enforcing and reviewing laws and regulations due to a lack of knowledge concerning the practice of the profession; (ii) could not compose, administer or grade written or clinical examinations for licensure of applicants; and (iii) would contribute little to the effectiveness of the board while creating an additional expense to the Commonwealth. Others felt that the interests of the public were protected by the citizen members on the Board of Commerce and the Commission of Health Regulatory Boards.

In their deliberations, the subcommittee members considered all of the testimony and written comments they had received. Estimates from the Department of Commerce and the Department of Health Regulatory Boards indicated that it would cost approximately \$20,000 and \$44,385 a year respectively to have citizen members placed on the involved boards within the two departments. It should be noted that the costs for health regulatory board members are borne by fees paid by the practitioners and not through funds appropriated from the general fund. Several members commented that the estimate by the Department of Health Regulatory Boards seemed unrealistically high.

The subcommittee discussed the modification of the definition of a "citizen member" serving on a regulatory board. It rejected a proposal which would have required citizen members to be consumers of the profession or occupation regulated. A majority of the members felt that Governors considered such factors as the interest, education, occupational background and the willingness to serve of individuals prior to their appointment to boards. Therefore, no specific qualifications for citizen members serving on boards should be mandated.

The subcommittee did agree, however, to recommend an amendment to the definition of "citizen member" which would allow a person who may be trained or educated in a certain profession to qualify as a citizen member if he is not a licensed practitioner of the profession or professions his board regulates. In addition, the subcommittee recommends that the Code be amended to allow citizen members to participate in all activities of the board, including if applicable (i) the administration (distributing the examination papers, monitoring the time, etc.) of examinations, and (ii) decisions regarding the professional competence of licensees. The Code will continue to prohibit participation by citizen members in composing and grading written or clinical examinations for licensure of applicants. Section 54-1.18:1, which contains the definition of "citizen member," and § 54-1.27, which describes the board activities in which citizen members may participate, pertain only to those boards within the Department of Commerce. With respect to the boards within the Department of Health Regulatory Boards, it was noted that the larger, more complex health regulatory boards usually defer to national board examinations where the exams are administered through a national system, while the smaller boards develop and grade their examinations.

The subcommittee considered the composition of each professional regulatory board on an individual basis. A majority of the members agreed to add one or two citizen members to certain boards and not to change the composition of the members on other boards. The consensus of the subcommittee as to each board is indicated in the appendix.

An entire meeting was devoted to the discussion of citizen participation in the regulation of members of the Virginia Bar. It was noted that once the license to practice law has been issued by the Virginia Board of Bar Examiners, the Board has no further contact with the individual. Attorneys are disciplined through the Virginia State Bar. Ninety-eight percent of the Board's time is utilized by the preparation, administration and grading of the bar examinations. Testimony indicated that due to the limited responsibility of the Board, there would be few instances where a citizen member would be beneficial.

The functions and operations of the Virginia State Bar were examined. Two citizens were added to the Unauthorized Practice of Law Committee in July of 1983. That committee investigates complaints against non-lawyers who encroach on the practice of law. District disciplinary committees which are involved in competency issues of individual practitioners also have citizen representatives as members. Although there is no citizen participation in the internal governing of the Bar Council, the Council's members always considers the public interest in their

deliberations.

Subcommittee members expressed concern over the fact that the Client Security Fund is governed by a board composed entirely of attorneys. Mr. Mayo, President of the Virginia State Bar, assured the subcommittee that he would recommend the placement of citizen members on the board for the Client Security Fund at the next meeting of the Bar. Because of citizen involvement with the Unauthorized Practice of Law Committee and the district disciplinary committees and the assurances by Mr. Mayo regarding the board of the Client Security Fund, the subcommittee agreed that no recommendation should be made to the Governor and the General Assembly regarding citizen involvement with the regulation of attorneys.

### CONCLUSION

The subcommittee conducted a thorough evaluation of the issues involved with citizen representation on occupational regulatory boards. Its decision regarding the membership of each individual board represents the opinion of a majority of the members. The recommendations reflected in this report and the draft legislation included in the appendix are not the result of a unanimous subcommittee. Members of the subcommittee expressed views which ranged from having citizen members placed on all regulatory boards which currently do not have citizen representation to having no changes made in the membership composition of the boards. Members adhering to the latter view noted a lack of public outcry or interest for having citizen members on occupational regulatory boards. Those members also stated that no need or advantage could be cited for inclusion of citizen members and that the cost of the addition would be prohibitive.

The subcommittee urges the consideration of all of the concerns expressed in this report.

Respectfully submitted,

Adelard L. Brault, Chairman  
Benjamin J. Lambert, III, Vice-Chairman  
Barbara Bitters  
\*\*Robert L. Bloxom  
A. C. Epps, Sr.  
Willard R. Finney  
Stanley C. Walker  
\*\*Robert L. Bloxom has filed the following dissent to this report.



ROBERT S. BLOXOM  
MAPPSVILLE, VIRGINIA 23407  
ONE HUNDRETH DISTRICT

COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
RICHMOND

COMMITTEE ASSIGNMENTS:  
GENERAL LAWS  
AGRICULTURE  
LABOR AND COMMERCE  
CHESAPEAKE AND ITS TRIBUTARIES

DISSENTING OPINION

ROBERT S. BLOXOM

I disagree with the majority opinion of this study committee. I did not determine a need for the addition of citizen members to all Boards nor were advantages explained to offset the corresponding additional cost. I neither saw nor heard of any citizen outcry of abuse by these Boards and found the people who have been asked to serve to be successful in their occupations and to have achieved preeminence among their peers. I found that most of these professionals reflected high standards for themselves and required that of their profession. I could see no significant regulatory improvement for the citizens of Virginia by the addition of citizen members to all Boards. All meetings of Boards are public and people are requested to participate. I did not sense any significant support from the general public for citizen representation on occupational or other regulatory Boards, nor was I able to equate the additional cost with additional advantages.

  
Robert S. Bloxom

**APPENDIX**



## PUBLIC/CONSUMER REPRESENTATION ON OCCUPATIONAL REGULATORY BOARDS

<u>State</u>	<u>Number of Occupational Regulatory Boards</u>	<u>Number of Occupational Regulatory Boards with Public/Consumer Members</u>
Alabama	34	6
Alaska	18	17
Arizona	23	21
Arkansas	35	29
California	41	41
Colorado	25	22
Connecticut	23	23
Delaware	23	14
Florida	30	27
Georgia	35	34
Hawaii	29	28
Idaho	26	7
Illinois	25	4
Indiana	24	22
Iowa	22	21
Kansas	14	11
Kentucky	26	24
Louisiana	30	1
Maine	33	33
Maryland	26	22
Massachusetts	32	28
Michigan	25	25
Minnesota	19	19
Mississippi	22	4
Missouri	16	16
Montana	26	24
Nebraska	21	11
Nevada	29	21
New Hampshire	22	19
New Jersey	21	21
New Mexico	23	21
North Carolina	29	27
North Dakota	26	11
Ohio	24	14
Oklahoma	27	11
Oregon	28	20
Rhode Island	25	10
South Carolina	30	19
South Dakota	22	21
Tennessee	28	13
Texas	27	27
Utah	23	23
Vermont	21	13
Virginia	10	30
Washington	27	12
West Virginia	24	18
Wisconsin	20	19
Wyoming	22	4

\*Based on survey of state laws.



# COMMONWEALTH of VIRGINIA

J. HENDERSON, JR.  
Director

**Department of Commerce**  
2 SOUTH NINTH STREET, RICHMOND, VIRGINIA 23219

October 7, 1982

Angela P. Bowser, Esq.  
Staff Attorney  
Division of Legislative Services  
General Assembly Building  
910 Capitol Street  
Richmond, VA

Dear Ms. Bowser:

I am pleased to respond to your letter of September 21, 1982, to Secretary Diener regarding estimates of additional costs of adding citizen members to boards within the Department of Commerce.

The cost estimates provided are the same estimates used in developing the budgets of boards for fiscal year 1982-83. The primary components of the estimates are per diem, travel, meals, and lodging.

These boards do not have citizen members:

<u>Board</u>	<u>Estimated Annual Cost of Adding Two Members</u>	<u>Percentage of Budget Attributable to each Member</u>
Architects, Professional Engineers, Land Surveyors, and Certified Landscape Architects	\$1,800	0.25
Accountancy	2,400	0.65
Water and Wastewater Works Operators	600	2.96
Nursing Home Administrators	1,200	8.34
Collection Agency	600	15.15
Polygraph Examiners	700	6.35
Private Security	600	0.90
Psychology	1,200	2.60

Angela P. Bowser, Esq.  
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<u>Board</u>	<u>Estimated Annual Cost of Adding Two Members</u>	<u>Percentage of Budget Attributable to each Member</u>
Social Workers	\$1,600	3.47
Professional Counselors	1,100	2.94
Alcoholism Counselors	1,400	10.29
Drug Counselors	1,200	19.93
Real Estate	5,000	0.62
Librarians	0	0.00

These Boards have one citizen member now and would have another added to them:

Opticians	300	2.76
Sanitarians	300	16.76

These Boards already have at least two citizen members:

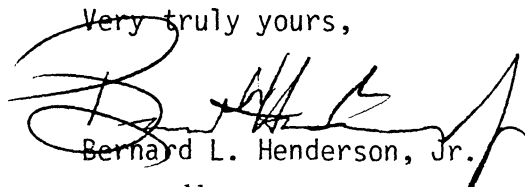
- Audiology and Speech Pathology
- Contractors
- Employment Agencies
- Behavioral Science
- Geology
- Commerce

These Boards have two or more seats for which the Code does not provide any specific designation. Two of these seats could be specifically reserved for citizen members as defined in the Code without any change in the number of members or expenses of the Boards:

- Barbers
- Commercial Driver Training Schools
- Harbor Pilots
- Athletic Commission
- Cosmetology

Please let me know if additional information is desired.

Very truly yours,



Bernard L. Henderson, Jr.

cc: The Honorable Betty J. Diener



# COMMONWEALTH of VIRGINIA

Office of the Governor

Richmond 23219

Joseph L. Fisher  
Secretary of Human Resources

## MEMORANDUM

TO: Angela P. Bowser, Staff Attorney  
Division of Legislative Services

FROM: Joseph L. Fisher *JLF*  
Secretary of Human Resources

DATE: October 14, 1982

SUBJECT: Cost of Placing Citizen Members on Regulatory Boards

The following information has been developed by the Department of Health Regulatory Boards in response to your request for an estimation of the annual costs of adding two citizen members to each health regulatory board.

### Estimated Annual Costs of Placing Citizen Members on Regulatory Boards

<u>Board</u>	<u>Costs*</u> <sup>1</sup>
Dentistry	\$ 9,160
Funeral Directors and Embalmers <sup>2</sup>	--
Medicine	8,020
Nursing	6,575
Optometry	7,390
Pharmacy	9,400
Veterinary Medicine	<u>3,840</u>
Total Costs	<u>\$44,385</u>

\*Note: <sup>1</sup> Estimated expenditures for travel and per diem associated with Board and Committee meetings, conferences, administration of licensure examinations, and informal/formal disciplinary hearings.

<sup>2</sup> Actual annual expenditures of \$9,350 are incurred by the two citizens on the Board of Funeral Directors and Embalmers.

It is important to note that the Department of Health Regulatory Boards, effective July 1, 1982, became a dedicated special fund agency supported entirely by revenue from licensure fees. The Department no longer receives a general fund appropriation and any significant increase in departmental expenditures would make it necessary to increase the licensure fees paid by the individuals regulated by the respective Boards.

I hope this information will contribute to the Joint Subcommittee's deliberations on this important regulatory issue.

If you need additional information on this matter, please contact H. Bryan Tomlinson, II, Director, at the Department of Health Regulatory Boards at 786-0801.

HBT:pjg

COMPOSITION OF OCCUPATIONAL REGULATORY BOARDS IN VIRGINIA

<u>BOARD/COMMISSION</u>	<u>TOTAL MEMBERS</u>	<u>CITIZEN MEMBERS</u>
<u>Department of Commerce</u>		
Accountancy	7	--
A.P.E.L.S.C.L.A.*	11	--
Athletic Commission	3	3
Audiology & Speech Pathology	7	2
Barbers	5	--
Collection Agencies	3	--
Commercial Driving Training Schools	5	2
Contractors	9	2
Cosmetology	7	--
Geology	5	2
Harbor Pilots	9	5
Hearing Aid Dealers & Fitters	7	2
Librarians	3	--
Nursing Home Administrators	7	--
Opticians	5	1
Real Estate Security Services	6	--
Sanitarians	5	--
Water & Waste Water Operators	8	1
	7	--
<u>Department of Health Regulatory Boards</u>		
Dentistry	7	--
Funeral Directors & Embalmers	7	2
Medicine	14	--
Nursing	7	--
Optometry	5	--
Pharmacy	5	--
Professional Counselors	7	--
Psychology	5	--
Social Workers	5	--
Substance Abuse Certification Committee	5	--
Veterinary Medicine	5	--

\*Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects

\*\*The 1983 General Assembly passed legislation which abolished the Board of Behavioral Science and the Employment Agency Advisory Board and transferred the Virginia Board of Professional Counselors, the Virginia Board of Psychology and the Virginia Board of Social Work from the Department of Commerce to the Department of Health Regulatory Boards. In addition, the Drug Counselors Certification Committee and the Alcoholism Counselors Certification Committee were consolidated into the Substance Abuse Certification Committee.

ACTION TAKEN BY SUBCOMMITTEE

DEPARTMENT OF COMMERCE

BOARD

CURRENT PROVISIONS

RECOMMENDATION OF SUBCOMMITTEE

1. Virginia Athletic Commission	3 members No occupational specification.	No recommendation.
2. State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects	11 members 3 architects 3 professional engineers 3 land surveyors and 2 certified landscape architects	Recommends the addition of two citizen members for a total of 13 Board members.
3. Board of Barber Examiners	5 members - requires 2 to be licensed barbers.	Recommends the designation of two members as citizen members and 3 members as barbers.
4. State Board of Accountancy	7 members 1 attorney 1 educator 5 certified public accountants	Recommends the addition of two members as citizen members for a total of 9 Board members.
5. Virginia Board of Cosmetology	7 members No occupational specifications.	Recommends the designation of two members as citizen members.
6. Board for Commercial Driver Training Schools	5 members Requires 2 members to be licensed instructors.	Recommends the designation of two members as citizen members.
7. State Board for the Certification of Librarians	3 members 3 librarians	Recommends the addition of two citizen members for a total of 5 Board members.
8. Virginia State Board of Opticians	5 members 3 licensed opticians 1 ophthalmologist 1 citizen member	The subcommittee decided not to change the composition of this Board.

DEPARTMENT OF COMMERCE

BOARD

CURRENT PROVISIONS

RECOMMENDATIONS OF SUBCOMMITTEE

9. Board of Commissioners to Examine Pilots	9 members 4 branch pilots	The subcommittee decided not to change the composition of this Board.
10. Board for Certification of Water and Wastewater Works Operators	7 members 7 members who are practitioners or employed in a related pro- fession	Recommends the addition of two citizen for a total of 9 Board members.
11. Virginia Collection Agency Board	3 members 3 practitioners	Recommends the addition of two citizen members for a total of 5 Board members.
12. Private Security Services Advisory Committee	6 members 6 practitioners	Recommends the addition of two citizen members for a total of 8 Board members.
13. Virginia Real Estate Commission	5 members 5 licensees	The subcommittee decided not to change the composition of this Board.
14. State Board of Sanitarian Examiners	8 members 7 members who are practitioners or employed in a related profession and 1 citizen member	The subcommittee decided not to change the composition of this Board.
15. State Board of Examiners for Nursing Home Administrators	7 members 7 members who are practitioner or employed in a related profession	Recommends the addition of 2 citizen members for a total of 9 Board members.



DEPARTMENT OF HEALTH REGULATORY BOARDS

<u>BOARD</u>	<u>CURRENT PROVISIONS</u>	<u>RECOMMENDATION OF SUBCOMMITTEE</u>
1. Virginia Board of Dentistry	7 members 6 dentists 1 dental hygienist  Dental hygienist has limited voting privileges.	No recommendation.
2. Virginia Board of Medicine	14 members 1 physician from each congressional district 1 osteopath 1 podiatrist 1 chiropractor 1 clinical psychologist	Recommends the addition of 1 citizen member for a total of 15 Board members.
3. Virginia State Board of Nursing	7 members 5 professional nurses 2 practical nurses	No recommendation.
4. Virginia Board of Optometry	5 members 5 optometrists	No recommendation.
5. State Board of Pharmacy	5 members 5 pharmacists	No recommendation.
6. Virginia Board of Veterinary Medicine	5 members 5 veterinarians	No recommendation.
7. Virginia Board of Professional Counselors	7 members 7 members who are practitioners or employed in a related profession	No recommendation.

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BOARD

- 8. Substance Abuse Certification Committee
- 9. Virginia Board of Psychology
- 10. Virginia Board of Social Work

CURRENT PROVISIONS

- 5 members  
5 drug or alcoholism counselors
- 5 members  
5 psychologists or educators  
in psychology
- 5 members  
5 social workers

RECOMMENDATION OF SUBCOMMITTEE

- No recommendation.
- No recommendation.
- Recommends the addition of 2  
citizen members for a total of  
7 Board members.

### Citizen Members on Regulatory Boards

§ 54-1.18:1. Appointments, removals, and limitation of terms of members of regulatory boards. – All members of regulatory boards shall be citizens of the United States and residents of Virginia. A “citizen member” of a regulatory board shall be a person who (i) is not ~~by training or experience~~ a *currently licensed* practitioner of the profession or occupation regulated by the board, (ii) is not the spouse, parent, child, or sibling of such a practitioner, and (iii) has no direct or indirect financial interest, except as a consumer, in the practice of the profession or occupation regulated by the board. Except as otherwise expressly provided, members shall be appointed by the Governor and may be removed by him as provided in § 2.1-43 B of the Code of Virginia. Any vacancy occurring other than by expiration of term shall be filled for the unexpired term. Members shall hold office after expiration of their terms until their successors are duly appointed and have qualified. No member shall serve more than two successive full terms on any regulatory board. This section shall not apply to the State Board of Commissioners to Examine Pilots.

Comment: The amendment would allow a person who may be trained or educated in a certain profession to qualify as a “citizen member” if he is not a licensed practitioner of the profession.

§ 54-1.27. Composition of regulatory boards.– A regulatory board established to administer a system of certification or licensing as provided in §§ 54-1.25 and 54-1.26, unless otherwise specified by law, shall be of such size, not to be fewer than five, as the Board may determine. Two members of each such board shall be citizen members and the remainder of the members shall be practitioners of the profession or occupation which is being regulated. Citizen members shall participate in all matters except ~~decisions regarding the examination~~ *composing and grading of written or clinical examinations* of applicants for licensure ~~or decisions regarding the professional competence of licensees~~. Terms of the members shall be staggered to ensure a continuing body. All appointments to and removals from regulatory boards shall be made by the Governor.

Comment: The amendment would allow citizen members to participate in the administration (distributing the examination papers; monitoring the time, etc.) of examinations, but prohibits the composing and grading of written or clinical examinations by citizen members. The current language prohibits citizen members from participating in *any decisions regarding the examination of applicants*. This amendment also allows citizen members to participate in decisions regarding the professional competence of licensees. This section relates only to the regulatory boards under the Department of Commerce.

§ 54-19. Qualifications and terms of members.– (1) The Board shall be composed of three architects, three professional engineers, three land surveyors ~~and~~, two certified landscape architects *and two citizen members*. *All professional Board members shall have actively practiced or taught their professions for at least ten years before their appointments. Other than that of the certified landscape architect appointed for a four-year term ending June 30, 1984, the terms of Board members shall be five years.*

(2) to (4) [Repealed.]

Comment: State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects.–The subcommittee agreed to add two citizen members to the Board.

§ 54-83.22. Board of Barber Examiners.–The Board of Barber Examiners is continued. It shall consist of five members, ~~at least two~~ *three* of whom shall be licensed barbers who have followed the occupation of barbering for at least five years immediately prior to appointment. *Two members of the Board shall be citizen members.* The terms of Board members shall be three years. The Board shall license persons to practice and teach barbering.

No person otherwise qualified to be licensed as a barber or barber teacher shall be denied licensure solely for failure to produce a certificate from a licensed physician stating that such person is free from any infectious disease in a communicable state, nor shall such certificate be required for the issuance of a renewal license as a barber or barber teacher, nor shall any person be denied admission to any school or college of barbering solely for failure to produce such a certificate.

The Board shall elect a chairman and a vice-chairman.

A majority of the Board in meeting duly assembled may perform and exercise all the duties and powers devolving upon the Board.

Comment: Board of Barber Examiners.—The subcommittee agreed to designate two of the five members of the Board as citizen members and three members as barbers.

§ 54-85. Number and terms of members.— The Board shall consist of ~~seven~~ *nine* members to be appointed for terms of five years.

§ 54-86. Qualifications of members.— ~~One member~~ of The Board shall ~~be consist of~~ a practicing attorney in good standing in any of the courts of this ~~State~~ *Commonwealth* ; ~~one~~ an educator, *two citizen members* and ~~the other~~ five practicing certified public accountants who shall have been actively engaged in such practice, for at least three years next preceding their appointment, and who hold certified public accountants' certificates issued by the State Board of Accountancy.

Comment: State Board of Accountancy.—The subcommittee agreed to add two citizen members to the Board.

§ 54-112.4:2. Board of Examiners of Professional Hairdressers continued as Virginia Board of Cosmetology; number, appointments and terms.— The Virginia State Board of Examiners of Professional Hairdressers is continued and shall hereafter be known as the Virginia Board of Cosmetology. The Board shall be composed of seven members who shall be appointed by the Governor for terms of four years. *Two members of the Board shall be citizen members.*

Comment: Virginia Board of Cosmetology.—The subcommittee agreed to designate two of the seven members of the Board as citizen members.

§ 54-145.12. Board for Commercial Driver Training Schools continued; membership, organization, etc.— The Board for Commercial Driver Training Schools is hereby continued. It shall consist of five members, at least two of whom shall be licensed instructors who have worked in the field of driver training for at least five years immediately prior to appointment. *Two members of the Board shall be citizen members.* The term of board members shall be three years.

The Board shall elect a chairman and a vice-chairman.

A majority of the Board in meeting duly assembled may perform and exercise all the duties and powers devolving upon the Board.

The Board shall have the authority to promulgate such rules and regulations to carry out the functions of the Board as may be necessary to provide adequate training for students. The rules and regulations shall include but need not be limited to provisions regarding curriculum requirements, contractual arrangements with students and obligations to students, facilities and equipment, qualifications of instructors and financial stability of the school.

Comment: Board for Commercial Driver Training Schools.—The subcommittee agreed to designate two of the five members of the Board as citizen members.

§ 54-262. Members and secretary of Board; terms.—The Board shall consist of *two citizen members* and two licensed librarians, to be appointed for five-year terms, and the State Librarian, who shall serve as secretary of the Board.

§ 54-264. Appointments from nominees of Virginia Library Association.— Each appointment ~~on~~ *of a librarian* to the Board may be made from a list of at least five names for each vacancy sent to the Governor, or to the Governor-elect, by the executive committee of the Virginia Library Association. The Governor shall notify the Association promptly of any *professional* vacancy other than by expiration and like nominations may be made for the filling of the vacancy. In no case shall the Governor be bound to make any appointment from among the nominees of the Association.

Comment: State Board for the Certification of Librarians.—The subcommittee agreed to add two citizen members to this Board.

§ 54-282. Board continued; change of title; how constituted.— The Board of Medical Examiners for the State of Virginia is continued and shall hereafter be known as the Virginia State Board of Medicine, and shall consist of one medical physician from each congressional district, one osteopath, one podiatrist, one chiropractor ~~and~~ . one clinical psychologist from the State at large *and one citizen member* . A “citizen member” shall be a person who (i) is not a currently licensed practitioner of medicine; (ii) is not the spouse, parent, child or sibling of such a practitioner; and (iii) has no direct or indirect financial interest except as a consumer, in the practice of medicine.

§ 54-283. Terms of office; qualifications; appointment of members generally.— The term of office of the members of the Board shall be five years, or until their successors are appointed and have qualified ; ~~and they~~ . *The professional members* shall be persons learned in their particular schools of practice and duly licensed, active practitioners in this ~~State~~ Commonwealth . *The citizen member of the Board shall participate in all matters except the composing and grading of examinations of applicants for licensure.*

As the terms of office respectively of the members expire by limitation the Governor shall appoint, to fill the vacancies so occasioned, qualified persons whose terms shall be for five years from the day on which that of their immediate predecessors expired. All vacancies occurring on the Board shall be filled by the Governor.

§ 54-284. Appointments from nominees of medical, etc., societies.—The Governor may select the medical physicians from a list of at least three names for each vacancy to be recommended by the Medical Society of Virginia, the clinical psychologist from a list of three names recommended by the Virginia Psychological Association, and the osteopath, podiatrist and chiropractor members, respectively, from a list of at least three names for each such vacancy to be nominated to him or to the Governor-elect by June ~~one~~ 1 of each year by their respective ~~State~~ state societies. In no case shall the Governor be bound to make any appointment from among the nominees of the respective societies. The Governor shall promptly notify the society, which may make nominations, of any *professional* vacancy other than by expiration among the members of the Board representing the particular profession and like nominations may be made for the filling of the vacancy.

Recommendations shall be by vote of the majority present at the meeting of the respective societies, and shall be certified to the Governor by the president and secretary of the society making the recommendation.

Comment: Virginia Board of Medicine.—The subcommittee agreed to add one citizen member to the Board.

§ 54-573.3. Board for Certification of Water and Wastewater Works Operators continued; composition; qualifications, terms of members.— The Board for the Certification of Water and Wastewater Works Operators is hereby continued. The Board shall consist of ~~seven~~ nine members: one shall be the Director of the Division of Engineering of the State Department of Health, one shall be the Executive Secretary of the State Water Control Board, one shall be currently employed as a waterworks operator having a valid certificate of the highest classification issued by the Board, one shall be currently employed as a wastewater works operator having a valid certificate of the highest classification issued by the Board, one shall be a faculty member of a state university or college whose principal field of teaching is management or operation of water or wastewater works, one shall represent the owner of a waterworks, ~~and~~ one shall represent the owner of a wastewater works *and two shall be citizen members* . No owner shall be represented on the Board by more than one representative or employee operator. The term of board members shall be four years.

Comment: . Board for the Certification of Water and Wastewater Works Opertors.—The subcommittee agreed to add two citizen members to the Board.

§ 54-729.4. Virginia Collection Agency Board continued; qualification, terms, etc., of members.  
| — The Virginia Collection Agency Board is hereby continued. It shall consist of ~~three~~ five

members appointed for three year terms. *Three* members shall have conducted a licensed collection agency for at least five years, either as owner, partner or manager, immediately prior to their appointment. *Two members of the Board shall be citizen members.*

§ 54-729.5. Director of Department of Commerce to be Director of Board.—The Director of the Department of ~~Professional and Occupational Regulation~~ *Commerce* shall be the Director of the Virginia Collection Agency Board.

Comment: Virginia Collection Agency Board.—The subcommittee agreed to add two citizen members to the Board.

§ 54-729.30. Powers of Department; Private Security Services Advisory Committee.—In addition to the powers otherwise conferred upon it by law, the Department shall have the power to:

A. Charge of each applicant for licensure or registration a fee, which shall be nonrefundable, in an amount determined by the Department to be reasonable to cover the costs of the Department in processing such application for a registration or license and the costs of the Criminal Justice Services Commission in promulgating regulations establishing compulsory minimum training standards and inspecting and evaluating facilities and programs of persons conducting training pursuant to § 9-111.2 A.

B. The Department shall promulgate rules and regulations, pursuant to Chapter 1.1:1 (§ 9-6.14:1 et seq.), of Title 9, of the Code of Virginia, enumerating grounds for denial, suspension or revocation of any registration or license. In issuing all rules and regulations under this article, the Department shall be guided by the policy of this chapter which is to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities regulated by this chapter.

C. The Department shall conduct an investigation to determine the suitability of each applicant for registration or licensure. For purposes of this investigation, the Department shall have access to criminal history record information maintained by Central Criminal Records Exchange of the Department of State Police.

D. There is hereby created a Private Security Services Advisory Committee which shall be composed of ~~six~~ *eight* members of whom two shall be private investigators ~~and~~ , four shall be persons engaged in the private security services business *and two shall be citizen members* . The Director of the Department shall appoint *one citizen member*, one private investigator and two persons engaged in the private security services business who shall serve at the pleasure of the Director. The Commission shall appoint *one citizen member*, one private investigator and two persons engaged in the private security services business who shall serve at the pleasure of the Commission. The Advisory Committee shall advise the Director on any and all problems relating to regulation of private security services businesses.

Comment: Private Security Services Advisory Committee.—The subcommittee agreed to add two citizen members to the Committee.

§ 54-903. Continuation and composition of State Board of Examiners for Nursing Home Administrators; terms of office.— The State Board of Examiners for Nursing Home Administrators is hereby continued. It shall consist of ~~seven~~ *nine* members, three who are licensed nursing home administrators ~~and~~ , four who are from professions and institutions concerned with the care and treatment of chronically ill and infirm aged patients *and two who are citizen members* . Two of the licensed nursing home administrators shall be administrators of proprietary nursing homes. The terms of Board members shall be four years.

Comment: State Board of examiners for Nursing Home Administrators.—The subcommittee agreed to add two citizen members to the Board.

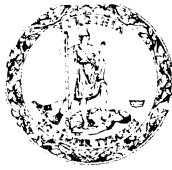
§ 54-942. Virginia Board of Social Work; members.—The Virginia Board of Social Work is hereby continued. It shall have the powers and duties granted it under this chapter for the purpose of regulating the practice of social work.

The Board shall be composed of five licensed social workers who have been in active

practice of social work for not less than five years prior to appointment *and two citizen members* . The terms of the members of the Board shall be five years.

Comment: Virginia Board of Social Work.--The subcommittee agreed to add two citizen members to the Board.

\*\*\*A second enacting clause in the legislation amending §§ 54-83.22, 54-112.4:2 and 54-145.12 which provides for the designation of two citizen members on the Board of Barber Examiners, the Board of Cosmetology and the Board for Commercial Driving Training Schools without increasing the membership of the Boards will provide that the current Board members may complete their second term on the Board prior to the placement of citizen members on these Boards.



COMMONWEALTH of VIRGINIA  
*Department of Health Regulatory Boards*

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September 16, 1983

Honorable Adelard L. Brault  
Chairman, Joint Subcommittee Studying  
Citizen Members on Regulatory Boards  
General Assembly Building  
910 Capitol Street  
Richmond, Virginia 23219

Dear Senator Brault:

I have reviewed the recommendations of the subcommittee studying the placement of public members on regulatory boards as it relates to the boards comprising the Department of Health Regulatory Boards. I noted that one public member was placed on the Board of Medicine and two public members were placed on the Board of Social Work. Apparently there was no recommendation for the placement of public members on the other boards comprising the Department of Health Regulatory Boards.

It has been the experience of other states that with careful attention to the recruitment, orientation, and training and support services; public members can bring a valuable public perspective to the deliberations of health regulatory boards. The enclosed chart from the Council of State Governments indicates that Virginia is among a minority of states that do not have public members on their health regulatory boards. While I can propose no magic formula for the optimum number of public members on each of the health regulatory boards, I do suggest that you consider a uniform approach to the placement of public members on these boards.

With due consideration of the costs of additional board members, the subcommittee may want to consider the placement of one public member on each of the health regulatory boards comprised of five to seven members and the placement of two public members on the Board of Medicine which is currently comprised of fourteen members. This approach would provide for a relatively uniform proportion of public members on each of the boards. I would also point out that the Commission of Health Regulatory Boards currently has fourteen members of




Honorable Adelard L. Brault  
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which there are four public members. A recent JLARC study of occupational regulation recommended that consideration be given to enlarging the proportion of public members on the Commission of Health Regulatory Boards in order to more fairly represent the public interest.

Thank you for this opportunity to share my thoughts with the subcommittee.

Sincerely,

  
H. Bryan Tomlinson, II  
Director

HBT:kbe

Enclosure

cc: Joseph L. Fisher,  
Secretary of Human Resources

APPENDIX 7

HEALTH PROFESSIONS REGULATORY BOARDS  
PUBLIC AND/OR CONSUMER MEMBERSHIP ON BOARDS

STATE	Professions														
	Audiologist	Chiropractor	Dentist	Dispensing Optician	Environmentalist	Hearing Aid Dispenser	Medical Doctor	Nurse	Nursing Home Administrator	Optometrist	Osteopath	Physical Therapist	Podiatrist	Psychologist	Veterinarian
Alabama	x	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Alaska	x	x	-	x	-	-	x	x	-	-	-	-	-	-	-
Arizona	x	x	x	x	x	x	x	x	-	-	x	-	x	x	x
Arkansas	x	-	-	-	-	-	-	-	-	-	-	-	-	-	-
California	x	-	x	-	-	x	-	x	x	x	-	x	x	x	x
Colorado	-	x	x	-	-	x	x	x	x	x	-	x	-	x	x
Connecticut	-	-	x	-	-	x	x	-	x	-	x	-	-	-	x
Delaware	x	-	-	-	-	x	x	-	x	-	-	-	-	-	-
Florida	-	x	x	x	-	x	x	x	x	x	x	-	x	-	x
Georgia	x	-	x	-	-	x	x	x	x	-	-	-	x	-	-
Hawaii	x	x	x	-	-	-	x	x	x	x	x	-	-	x	-
Idaho	-	-	-	-	-	-	x	x	x	-	-	-	x	-	-
Illinois	-	-	-	-	-	-	-	-	x	-	-	-	-	-	-
Indiana	-	-	-	-	x	-	-	-	x	-	-	-	-	-	-
Iowa	x	x	x	-	-	x	x	x	x	-	-	x	x	x	x
Kansas	-	-	x	-	-	x	x	x	x	-	-	-	-	-	-
Kentucky	x	-	-	x	-	x	x	x	x	-	-	x	x	x	x
Louisiana	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Maine	x	x	x	-	-	x	x	x	x	x	x	x	x	x	x
Maryland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Massachusetts	-	x	x	x	x	x	x	x	x	x	-	x	-	x	x
Michigan	x	x	x	-	x	x	x	x	x	x	x	x	x	x	x
Minnesota	-	x	x	-	x	x	x	x	x	-	-	-	x	x	x
Mississippi	-	-	-	-	-	x	-	x	-	-	-	-	-	-	-
Missouri	-	-	-	-	-	-	-	-	x	-	-	-	-	-	-
Montana	x	-	-	-	-	-	-	-	x	x	-	-	-	-	x
Nebraska	-	x	x	-	-	-	x	x	x	x	x	x	x	-	x
Nevada	x	x	x	x	x	x	x	x	x	-	x	x	x	x	x
New Hampshire	-	x	x	-	-	-	-	-	x	-	-	-	-	-	-
New Jersey	-	x	x	x	-	x	x	x	-	x	-	-	-	x	x
New Mexico	-	x	x	-	-	-	x	-	-	x	x	x	x	-	x
New York	x	x	x	x	-	-	x	x	x	-	x	x	x	x	x
North Carolina	-	-	-	x	x	-	-	-	-	-	-	-	-	-	-
North Dakota	x	-	-	-	-	-	-	x	-	-	-	x	-	-	-
Ohio	x	x	x	x	-	-	x	-	-	-	-	-	-	x	-
Oklahoma	x	x	x	-	-	x	-	-	x	-	-	-	-	-	-
Oregon	-	x	x	-	-	-	x	-	-	-	-	-	-	-	-
Pennsylvania	-	x	x	-	-	-	x	x	x	x	x	x	x	x	x
Rhode Island	x	-	-	-	-	x	x	-	x	x	-	-	-	x	-
South Carolina	-	-	-	x	-	x	-	x	x	-	-	-	-	-	-
South Dakota	-	x	x	-	-	x	x	x	x	-	-	-	x	-	x
Tennessee	-	-	-	-	-	x	-	-	x	-	-	-	-	-	-
Texas	-	-	-	-	-	x	-	-	x	-	-	-	-	-	-
Utah	-	-	-	-	-	x	x	-	-	-	-	-	-	-	-
Vermont	-	-	x	x	-	-	x	x	x	-	-	x	-	x	-
Virginia	x	-	-	x	-	x	-	-	-	-	-	-	-	x	-
Washington	-	-	-	-	-	x	x	x	x	-	x	-	-	-	x
West Virginia	-	x	x	-	x	x	x	x	x	-	x	-	-	x	x
Wisconsin	x	x	x	-	-	x	x	x	x	-	x	x	x	x	x
Wyoming	x	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Number of States Regulating Occupation	<u>32</u>	<u>50</u>	<u>50</u>	<u>22</u>	<u>37</u>	<u>43</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>49</u>	<u>50</u>
Total Number of States with Public/Consumer Member	<u>18</u>	<u>23</u>	<u>29</u>	<u>13</u>	<u>8</u>	<u>26</u>	<u>31</u>	<u>27</u>	<u>34</u>	<u>24</u>	<u>12</u>	<u>16</u>	<u>18</u>	<u>21</u>	<u>25</u>
Percent of States Regulating Occupation with Public/Consumer Member	56%	46%	58%	59%	22%	60%	62%	54%	68%	48%	24%	32%	36%	43%	50%

Legend: x Public and/or Consumer membership on board.  
- Either there are no public members on the board, or the occupation is regulated by another board; i.e., chiropractors, physical therapists and physicians (D.O.) are regulated in some states by the same board which regulate physicians (M.D.).

Note: A blank means that the occupation is not regulated by a board.

Source: Council of State Governments, Health Licensure Boards: Public Membership, 1981.



