

Testimony by Dr. Shelley Lenz, owner of State Ave Vet Clinic, opposing SB2129

SB 2129, a bill introduced by the Senate Workforce Development, to affect 43-29 NDCC relating to the practice of veterinary medicine and veterinary technology, will harm the veterinary workforce, veterinary businesses, animal health and welfare, food animal producers, and overall quality of life in our communities. Although the ND Veterinary Practice Act needs a complete and thoughtful revision to serve the public and animal health/welfare, the proposed changes do none of that. Additionally, it is an abject government overreach into privacy and inappropriate regulation of private business, and it leaves up a legal path for political activism from both sides of the spectrum to shut down a veterinarian/vet business. The NDVME governmental oversight should only include acts of veterinary medicine, i.e., (diagnose, prognose, prescribe, and surgicate). The current and proposed bill allows the NDVME to interfere with business rights, give vague power to decide morality/professionalism/personal ethics, and opens the door to political animal activism to easily shut down certain aspects of veterinary medicine that extremists disagree with. Further, the NDVME purposefully is moving much of the Board's legal obligations to administrative rule instead of the Practice Act, thus shielding them from legislative review and public input. **I oppose this bill and recommend this bill be sent to study to include input from all the parties whom this bill will affect, including food animal producers, veterinarians, veterinary technicians, business owners, animal welfare groups, and the general public.**

To give some context to how the NDVME already has compromised veterinary business and workforce due to the vagueness and outdated Practice Act, I would like to share my experience as a business owner and veterinarian in North Dakota. Since opening my practice in 2007, I have been in front of the Board thrice. All three complaints had nothing to do with an act of veterinary medicine (diagnose, prognose, prescribe, or surgicate) for which the board gives vets protected status to perform but rather because of business decisions that left disgruntled clients an easy path to lash out. As the practice owner, I terminate (or "fire") all clients when the need arises to protect my veterinarians, my staff, and my business from backlash of a disgruntled client. In 2021, as a business owner, I fired a client for harassing my staff, making disparaging remarks about my business policy, lying (or generously, a very unreliable narrative), and bashing my veterinarian on social media. I act as a business owner who happens to have a veterinary license when I terminate clients. This resulted in the client's attempt to extort my business by the client's lawyer sending me a letter threatening to file charges with the ND Labor Department for discrimination and NDVME for "unprofessional conduct" if my clinic didn't resume medical care for the animal. I declined to be extorted. Shortly afterward, both complaints were filed. The ND Labor Department did a prompt and appropriate investigation via phone call/email, ensuring that the fired client was not being discriminated against, and dismissed the charges within thirty days. The NDVME,

however, took the complaint's accusation as true at face value upon reading the complaint. The Board determined, without due process, investigation, or finding of fact, that I was guilty and threatened to suspend my license if I didn't acquiesce to the charges and accept my punishment. As per my rights, I requested an ALJ (Administrative Law Judge) hearing, which the Board continued to deny for close to two years. Rather, they chose to discuss at each board meeting how to pressure me by increasing threats to my livelihood, including trying to see if they could force me to take a psych eval, force my employees to report on me, and force interviews/reports with my clients. After two years of denying my due process and many long board meetings where the board publicly assassinated my character on speculation alone while my license and my business were under threat, they completely dismissed my case after a 20-minute executive session with a new Board lawyer that I wasn't privy to. The numerous veterinarians watching these Board meetings were shocked at the level of personal vindictiveness and misdirection the Board had. All this stress, threats, no findings of fact, and a blatant disregard to due process for a business decision that had nothing to do with an act of veterinary medicine.

The impact of a practice owner losing their veterinary license is significant. It would shut down my business as it is under my veterinary license that I have contracts with drug distributors and a registrar with the DEA for controlled drugs that are essential to our business. That loss of my veterinary business not only leaves the rural area further underserved with regard to access to veterinary care, severely affecting the quality of life for community members and their animals but would set precedence for veterinary business owners helpless in protecting their business, their property and their employees.

Specific to the Bill proposed-

1- Senate Bill No. 2129 - Sixty-ninth Legislative Assembly of North Dakota - LC Number 25.8033.01000 page no 19, line 20; 43-29-14d) Limit the NDVME to limit complaints specific to our license (diagnose, prognosis, surgical, and prescribe) and remove any reference to immorality, unprofessionalism, or ethics, as these are subjective and vague (43-29-14-d). Other governmental agencies, such as the ND Department of Labor and Human Rights or the Bureau of Criminal Investigation, can determine if a veterinarian's behaviors/actions are criminal/unlawful and the appropriate penalty. Further, market forces (clients) can decide if they want to continue to work with a veterinarian based on their own ethics, morals, and principles. At the minimum, the proposal needs an objective list of conditions that could result in license revocation. Otherwise, the issue becomes purely dependent upon who is hearing the case, and one board member with a different sense of morality/ethics/professionalism can destroy a veterinarian's livelihood and business.

43-29-14. Refusal, suspension, and revocation of license and certificate - Reinstatement and relicense.

d. Immoral, unprofessional, or dishonorable conduct manifestly disqualifies the licensed veterinarian or veterinary technician from practicing veterinary medicine or veterinary technology.

2- Senate Bill No. 2129 - Sixty-ninth Legislative Assembly of North Dakota - LC Number 25.8033.01000 page no 21, line 26 43-29-15-2c. Complaints –

Investigations. This vague proposal encroaches on a veterinarian's privacy, forces large medical expenditures on the vet, and allows nefarious complainants or board members to increase the burden of a veterinarian defending their livelihood. There might be instances where drugs, dementia, etc., might be a problem, but the board needs a completely separate protocol for these situations. This amendment could be easily weaponized by a board member, disgruntled client, or political activist by a simple complaint on vague accusations. Further, the wording used to define an "impaired veterinarian" (**Senate Bill No. 2129 - Sixty-ninth Legislative Assembly of North Dakota - LC Number 25.8033.01000 page 3 lines 5-10, Sections 11 & 12**) seems to be highly discriminatory phrasing to persons with disabilities.

43-29-15-2c "Require the veterinarian or veterinary technician to submit to a physical examination, chemical dependency evaluation, or psychological examination by a physician or other qualified evaluation professional selected by the board if there is reasonable cause to believe the veterinarian or veterinary technician is impaired as defined by 43-29-01.1 or 43-29-01.1;"

43-29-11. "Impaired veterinarian" means a veterinarian who is unable to practice veterinary medicine with reasonable skill and safety because of a physical or mental disability or the use of alcohol, drugs, or other habit-forming chemicals.

43-29-12. "Impaired veterinary technician" means a veterinary technician who is unable to practice veterinary technology with reasonable skill and safety because of a physical or mental disability or the use of alcohol, drugs, or other habit-forming chemicals

3- The proposal Senate Bill No. 2129 - Sixty-ninth Legislative Assembly of North Dakota - LC Number 25.8033.01000 SECTION 19. AMENDMENT page no 23, line 18 (below), that the DVM/LVT may be required to pay for the legal bills of the NDVME should be removed. This seems onerous as most complaints are frivolous. Additionally, to ensure due process of the DVM/LVT—the defendant can request an ALJ hearing. This can be expensive for the taxpayer but serves

as a check on the power/competence of the Board while protecting the rights of the veterinarian to due process. This amendment appears to be an attempt by the Board to discourage veterinarians from their due process to protect their livelihood and business.

“In any order or decision issued by the board in which disciplinary action is imposed against a licensee veterinarian or veterinary technician, the board may direct the licensee veterinarian or veterinary technician to pay the board a sum not to exceed the reasonable and actual costs, including attorney's fees, incurred by the board in the investigation and prosecution of the case. When applicable, the licensee's license or temporary license of the veterinarian or veterinary technician may be suspended until the costs are paid to the board.”

4- Senate Bill No. 2129 - Sixty-ninth Legislative Assembly of North Dakota - LC Number 25.8033.01000 page no 6 beginning line 24 Section 2-8. This provision should be completely removed as it violates a private business entity's ability to determine that they can serve or not serve. A terminated client is frequently a threat or danger to the business and/or their staff. The requirement of complete medical records for the client and a written prescription for any ongoing meds for 30 days should be sufficient to ensure animal health/welfare obligations are met. Being served by a veterinary business is a privilege, not a right. The wording leaves any chronic previously diagnosed disease (e.g., diabetes, arthritis, etc.) that may force a veterinary business to continue serving a client when a mutually respectful relationship is no longer present or, worse, is a threat to the business.

Chapter 43-29 Section 2-08 “The veterinarian shall refer the patient to another veterinarian for diagnosis, care, and treatment if the veterinarian-client-patient relationship has been terminated and an ongoing medical or surgical condition exists. The veterinarian must allow the client a reasonable amount of time to arrange care with another veterinarian.

In summary, I strongly advocate sending SB2129 into a study to ensure proper input from veterinarians, food animal producers, animal owners, and interested associations such as Farm Bureau/Farmer's Union, NDVMA, and animal welfare groups.

Respectfully,
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