

Dr. Jake Schmitz, DC, MS
4233 44th Avenue South, Fargo, ND 58104
701-770-0185
drjakedc4u@gmail.com

- Licensed Chiropractor in ND (and previously NC)
- Owner of Freedom Chiropractic Health Center in Fargo
- Founder and president of the Association of Wellness Chiropractors
- Business co-owner of several entities in ND involving land, minerals, water, and real estate
- Associates degree at Williston State College, BS in Chemistry at Dickinson State University, Doctor of Chiropractic at Northwestern Health Sciences University, Master's degree in Human Nutrition and Functional Medicine at University of Western States, and finishing Doctorate in Clinical Nutrition at University of Western States
- Married with 4 children

Chairman Louser, Representatives of the Industry, Business and Labor Committee,

Hello and thank you for the opportunity to speak to you today. My name is Dr. Jake Schmitz, and I am here today representing myself as a licensed chiropractor in the state of North Dakota (ND). I have been a practicing chiropractor in Fargo for just over 11 years.

I oppose the proposed bill HB 1105 for one main reason. This bill blatantly skirts open meeting/record laws. One of the most common tactics this board uses to govern is to do so via executive sessions. This last year alone the board had 13 meetings and went to 22 executive sessions accounting for roughly 5.4 hours of cumulative time.

The intent of the Open Meeting/Record laws, implemented by the legislature, is for increased transparency by state agencies. Section 44-04 has exceptions for when it is appropriate to go to executive session by boards (attorney consultation, negotiation strategies, etc.) This bill serves no purpose, other than to give the Chiropractic board the ability to hold private discussions about license holders without public being present. Passing this bill will remove the intent of the legislature regarding transparency.

Exactly who benefits from this bill? In no way does this protect the public, which is the stated mission of the chiropractic board. The mission of the chiropractic board is to "protect the public's health, welfare, and safety..." The board claims this bill will help protect HIPAA rights of patients, but that isn't accurate. Without this bill getting passed, HIPAA is still intact, which protects patient information. This bill

pretends like it is going to protect HIPAA rights of patients, but they are already under federal protection, regardless of whether this is a board or not. Why add this new portion to the law? The answer is simple....so the chiropractic board can hide their discussions and avoid the public.

This bill will counter the Open Meeting laws. That means license holders, constituents, public members, anyone, will get no information, and this board will be allowed to govern behind closed doors. What's the point to having an open meeting at all then?

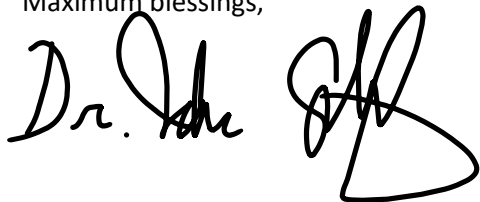
43-06-14.1.7 has a specific purpose, which is to protect any patient testimony and information from being made public. This has more to do with HIPAA than any additional need for confidentiality. This portion of law only pertains to peer review committee work, which is rare. There have been only three peer review committees created in the past 6+ years. The chiropractic board hopes you (the legislature) fix this for them so they can go to executive session for anything pertaining to a complaint.

This is problematic for obvious reasons. The Chiropractic board uses executive sessions to hide discussions which should be otherwise open to the public. When they return from executive session, they do not give any details as is required by 44-04. They instead have a canned response, which is "proceed as discussed in executive session." This prevents the public from having any ability to know how this board governs. If this bill passes, they will share no information with the public, because they will now have a carte blanche excuse to keep everything confidential.

In the interest of public transparency for state agencies, I hope you vote a DO NOT PASS on HB 1105 in protection of Open Meeting Laws.

Thank you for your time. I greatly appreciate the opportunity to speak here today. I will welcome any questions you may have.

Maximum blessings,

A handwritten signature in black ink, appearing to read "Dr. Jake Schmitz". The signature is stylized and cursive, with a large, sweeping flourish at the end.

Dr. Jake Schmitz