

SENATE WORKFORCE DEVELOPMENT
FRIDAY, MARCH 3, 2023, AT 9:30 AM

TESTIMONY OF HEIDI STRAIN
NORTH DAKOTA BOARD OF MASSAGE THERAPY
HOUSE BILL NO. 1128

Good morning, Chairman Wobbema and members of the Committee. I am Heidi Strain, the current President of the North Dakota Board of Massage and I am here today on behalf of the Board to explain why the Board would like you to pass House Bill 1128. Mostly this is a “clean-up bill” as we are updating outdated language and clarifying areas that have been confusing for the Board, its licensees, and the public, in the past few years.

Section 1

The Board would like to remove the word “hands” and replace it with “touch” as this is a more appropriate description as licensed massage therapists do use their elbows and forearms frequently and their work is not limited to only “hands.”

Section 2

The Board would like to remove “May not be a current or past member of any other health care licensing entity, may not have a fiduciary obligation to a facility rendering health care services, may not have a financial interest in the rendering of health care services” from the board member requirements.

Removing this language would open up our consumer member position which has historically been a hard spot to fill. The position was vacant from approximately June 2020, until the current

consumer member was appointed in approximately January 2022. This led to significant quorum issues for our Board of 5 members. At least 3 meetings had to be rescheduled in 2021 due to lack of quorum. Leaving the requirements for this position as they are currently stated in the law leaves more of a restriction on the requirements.

The Board would like to remove the language “appointed to a term beginning after June 30, 2013” as this is a very specific and expired date - no current Board members were appointed before June 30, 2013. Moving forward, all Board members may only serve six consecutive years and may not be reappointed until three years have passed.

Section 3

The Board would like to remove the language “and of good moral character and temperate habits” from our requirements for licensure. This language is very subjective, has not been used to grant or deny a license to the current Board’s knowledge and we believe this change is consistent with other occupational boards that have been updating this language in clean up bills. The Board is still required by law (N.D.C.C. 43-25-08.1) to require all applicants to submit to a statewide and nationwide criminal history record check. The Board also has the statutory authority to require physical or mental examinations of licensees or applicants that jeopardize the public’s health (N.D.C.C. 43-25-09(3)). Removing the requirement of “good moral character and temperate habits” from the Board’s laws will not cause harm to the public. The Board still has broad authority to deny or discipline licenses, under N.D.C.C. 43-25-10.

The Board would next like to add “Meets any other requirements set by the board by rule” to the requirements for licensure. This change would allow the Board more flexibility to set other requirements, as needed, for licensure by administrative rules. For example, this change would allow the Board to propose administrative rules to address human trafficking concerns, such as in-person interviews next year if this bill passes, more quickly.

Section 4

The Board would like to clarify where licensees are required to display their licenses. The Board would like the this clarified and changed to the following wording, “Each ‘licensee shall display the licensee’s original license or license renewal card’ at the ‘licensee’s’ place of practice.”

Removing the verbiage “must be conspicuously displayed.”

The Board felt this would help clear up some confusion licensees had in regarding what piece of paper needed to be displayed.

The Board would like to replace the requirement for no more than “ten hours” of remote continuing education renewal hours to “fifty percent” of a licensee’s renewal hours may be by remote means. Making this change would simplify this part of our law and be easier on the licensees and create less confusion.

On page 4, the Board would like to add the sentence “Refusal to submit to an examination, if the refusal is not due to circumstances beyond the licensee's control, constitutes grounds for discipline under section 43 - 25 - 10.” The current law allows the Board to require physical or

mental examinations but does not provide any guidance in the situation of refusal. Adding this proposed language would be consistent with the current law and help the Board serve its main goal of safety and protection of the public. A later change in the proposed bill would allow the Board to pursue disciplinary action if need be too where as it is right now the Board may not be able to do anything if a licensee or applicant refused the examination.

At the bottom of page 4, line 29, starting after the words “and work experience to” the Board, related to international transcripts only, would like to remove, “one of the following credentialing agencies for review; a. International education research foundation; b. International consultants of Delaware, Inc.; or c” leaving only “a credentialing agency approved by the board.”

The agencies currently listed in subsections a and b are too specific, to the Board’s knowledge have not been used, and the Board feels that only leaving “a credentialing agency approved by the board” will suffice.

Section 5

On the bottom of page 5, the Board would like to add “(g) The licensee or applicant failed to submit to a physical or mental examination ordered by the Board under section 43-25-09.” This change is for consistency with the requested change in Section 4 of the bill. As mentioned above, the Board would be adding this section to match the previously requested change in North Dakota Century Code under Section 43-25-09(3) which, again, would just increase the safety and protection of the public relating to physical and mental examinations.

Section 6

On reciprocity, the Board would like to add “city, county” to this subsection so the law would read: “Any individual who has been duly licensed in another city, county, state territory or jurisdiction of the United States...” Our current law requires massage therapists to be licensed under this reciprocity section; however, not all jurisdictions have similar licensure requirements. Some jurisdictions license by city and county. For example, Minnesota does not currently license massage therapists at the state level. Adding these 2 words throughout the subsection would incorporate more of what we are seeing in a few jurisdictions where they require massage therapists to be licensed by a city or by a county. This change would make our North Dakota Century Code more inclusive.

This ends my formal testimony. On behalf of the North Dakota State Board of Massage I thank you for your time and consideration and would be happy to answer any questions you may have regarding this bill.

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