

WORKFORCE DEVELOPMENT COMMITTEE
FEBRUARY 3, 2023

TESTIMONY OF
NORTH DAKOTA BOARD OF MEDICINE
SENATE BILL NO. 2098

Chair Wobbema, members of the Committee. I'm Sandra DePountis, Executive Director of the North Dakota Board of Medicine, appearing on behalf of the Board to present Senate Bill 2098 relating to the Physician Health Program (PHP).

For those not familiar with the PHP, the PHP facilitates the rehabilitation of healthcare providers who have physical or mental health conditions that could compromise public safety, and to monitor their recovery. It's a safe place for our licensees to go to get the help they need – whether it be from burnout or a substance use disorder. The PHP evaluates the needs of every individual and utilizes its resources to match them to appropriate treatment to create an individualized monitoring program.

There are two avenues for enrollment in the PHP. A participant can voluntarily enroll in the program by personally reaching out to the PHP. Such participants are “confidential” without their identity being known to the Board, as long as they are in compliance with their monitoring agreement and safe to practice. The law provides when and if a voluntary participant gets reported to the Board for possible action which is set forth in 43-17.3-03 (Section 3) below. The other avenue is if the participant is Board ordered. For those participants, the Board, after receiving information that raises concerns about the individual's ability to practice safely, orders the individual to enroll in

the program. The Board receives quarterly reports on such individuals tracking their progress.

A large part of the bill before you extends this program and Board resources/funding to now include students – both medical and PA students – at the University of North Dakota School of Medicine and Health Sciences. The Board and PHP feel it is important to have these resources available to students as they embark on these challenging careers. Other parts of the bill clarify and update language, including:

Section 1. Updates the definitions to include “student” and “participant” used throughout the chapter. There is also an updated definition of “impairment” consistent with the DSM 5 that recognizes it to be “use” that interferes with the ability to practice safely versus “abuse.”

Section 2. Adding “students” to the program.

Section 3. Adding “students” to the program and clarifying when identifiable information is disclosed. Language is also added requiring the PHP to collaborate with the Board on a policy in which participants can obtain a second opinion review of recommendations of the program.

Section 4. Clarifying language as the PHP does not conduct the evaluations but instead refers the individual to an appropriate facility.

The last sentence is also removed that would require all applicants, as a condition of licensure, to agree that they would submit to an evaluation. This raises due process concerns and conflicts with Board language in 43-17.1-06(3) which requires probable cause to require a licensee to submit to such an evaluation.

Section 5. Adding “students’ to the program.

Section 6. Updated language provides clarification on when records are disclosed and testimony provided by the PHP. As previously referenced, the law provides that in certain situations, participants are reported by the PHP to the Board if there are concerns regarding safety to practice or non-compliance with their monitoring agreement. In order for the Board to fulfill its role of protecting the public and proceeding with possible action against a license, it needs the evidence supporting the referral, so it can determine whether an individual should continue to practice under his/her license. The language provides clarification that the PHP will disclose such evidence and records when reporting a possibly impaired individual to the Board as mandated by the law. If a disciplinary matter goes for a hearing, the PHP will need to testify in such formal disciplinary cases, which is further clarified in the language.

Thank you for your time and attention and I would be happy to answer any questions.