

WORKFORCE DEVELOPMENT COMMITTEE
FEBRUARY 10, 2023

TESTIMONY OF
NORTH DAKOTA BOARD OF MEDICINE
SENATE BILL NO. 2184

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 in opposition to the originally filed Senate Bill 2184. There are amendments filed by Senator Lee for the bill. The Board would withdraw its opposition to the bill if the amendments are adopted. The below testimony is therefore regarding the concerns with the originally filed bill.

The North Dakota Board of Medicine is responsible for licensing and disciplining physicians, physician assistants, physician residents, and genetic counselors – which are set forth in various sections of North Dakota Century Code Title 43 – Occupations and Licensure. There is already a chapter in this Title – chapter 43-51, that provides various regulations applicable to the licensing boards. This bill would create another chapter in Title 43 – again providing various regulations in a new chapter. The concern with the numerous chapters is the contradictory language – and what law would be the controlling authority that practitioners and boards must ultimately follow if each chapters have different laws/provisions. For example, chapter 43-51 already defines “foreign practitioners” and outlines various waivers for licensure, authorized emergency practice, and reciprocity, along with a section specifically on compacts. Would the language in 43-51 negate the license by foreign practitioner’s section of this bill found on page 3?

SB 2184 starts each section with “notwithstanding law to the contrary.” Individuals and practitioners who are not adept at reading legislation, are often confused by this phrase, resulting in confusion on what is the applicable law to be followed. There are also instances in which a law in a practice act may say “as set forth by rule.” Would this law and subsequent rule then be the authority? Or would the authority need to be specific in law to be the controlling authority over the language in SB 2184? For example, the Board of Medicine issues licenses to resident physicians “as set forth by rule.” N.D.A.C. 50-02-13 outlines “resident licensure” recognizing that such licenses are for the term of the residency program – the length of which varies by specialty area. Would the fact that this is not specifically in century code now be eclipsed by the language proposed on page 3 – Regulation, Terms of licensure, Renewal – of the bill – converting it to a one-year license?

Also of concern is the language regarding Licensure of foreign practitioners on page 3. The Board is part of the physician compact (Interstate Medical Licensure Compact Commission) – so it would appear that is allowed and be the controlling authority by section 2 – over section 1 reciprocity. However, physician assistants and genetic counselors are not part of a compact. Instead, what one would think of as “reciprocity” – aka an expedited license – comes not through the issuance of a license from another state – but through national certifying agencies. Physician assistants must hold an active certification through the National Commission on Certification of Physician Assistants (NCCPA). Genetic Counselors hold credentials with the American Board of Genetic Counseling (ABGC). These national organizations take care of many primary source verifications needed for licensure, so the Board of Medicine does not

need to obtain them (i.e. verification of schooling, exam scores, etc.) thus expediting the licensure process. The language of the bill does not recognize the national certifications as an appropriate avenue for reciprocity.

Finally, the Board obtains annual financial audits – conducted by certified/licensed public accountants. The audits are thorough and timely made. The Board has worked with the accountants for many years and we are able to contact them at any time with questions on new accounting principle, bookkeeping and payroll issues, etc. and we receive a timely response with guidance on how to properly proceed. Would the State Auditor’s office be able to extend the same guidance and service? Having an independent audit by certified/licensed public accountants has been working well for numerous years and therefore question the need for this change.

Finally, the Department of Commerce is already tasked with reviewing licensing boards in the State of North Dakota which is done through the Workforce Development Division. In 2019, SB 2306 passed that required the Department of Commerce to study licensing boards with various requirements and parameters. To that end, Workforce Development engaged the services of a national organization – CLEAR – to review the 50 licensing boards in North Dakota by conducting a thorough examination and survey. The report was highly positive – finding that the boards were processing applications timely, expediated licenses were being provided to military spouses, and “(a)together, CLEAR measured North Dakota’s occupational licensing environment to be efficient, well-staffed, and conducive to reform.” Since this initial survey, Workforce Development continues to study and monitor the licensing boards. If additional studies need to be implemented or scope of review expanded, it seems practical to provide such direction

to the Department of Commerce so as to continue to build off of their knowledge, resources, and proven ability to continue monitoring of the boards.

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