WORKFORCE DEVELOPMENT COMMITTEE
JANUARY 26, 2023

TESTIMONY OF
NORTH DAKOTA BOARD OF MEDICINE
SENATE BILL NO. 2337

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 Senate Bill 2337.

While the Board appreciates that there may be licensing Boards who struggle with administrative support services that can provide an efficient and properly functioning support staff, this is not the case for the Board of Medicine. The Board already enjoys the support of an office staff that efficiently processes more than a thousand of these complex applications associated with medical licensure each year, investigates hundreds of complaints each year, appropriately handles sensitive and highly confidential documents, and verifies that the Board is implementing best practices consistent with national standards. The following testimony provides an overview of the administrative functions of the Board of Medicine that outline the need for its own designated office staff.

<u>License Application</u>

It is vital that the physicians and physician assistants licensed in North Dakota are properly vetted to ensure safe health care services are being provided to our citizens. This includes more of an in-depth review and licensure process than many other licenses. Medical boards around the nation employ "credentialing specialists" that are trained to process these applications and can spot inconsistencies and other red

flags that raise concern. It involves more than just receiving a document and checking it off a list of things that need to be submitted, but instead requires a thorough examination of the information/document with knowledge of what it should contain and if something is “off” to follow up with the appropriate authority. The individuals processing these applications need to know what they are looking for which comes with training and experience with working with these applications.

Unfortunately, the North Dakota Board of Medicine, along with other medical boards throughout the nation, are dealing with an uptick in applicants failing to be fully forthright and truthful in their applications, and an era of utilizing fraudulent documentation readily available online. The Board has tried to address this by updating its application with multiple areas, in bold, underlying, etc. letting applicants know that they are responsible for providing truthful and accurate information and that failure to do so will result in delays in licensure, an interview with the board, and possible denial of an application. Despite these warnings, we continually see inaccuracies and failure to fully disclose in applications, which are only caught thanks to the training and expertise of the Board’s staff.

Some examples, the Board requires an applicant to list on their application where they have worked within the last ten years. The Board will follow up and contact employers from the last three years for verification on dates of employment and to ask whether any concerns arose during the employment. In a recent example, an applicant said he worked at employment X for the dates Y through Z. In reaching out to the employer, the dates did not match up with the application. In follow up, the Board staff asked the applicant about the discrepancy and if they had other employment during that

time, only to learn that the applicant had such employment but was fired due to errant conduct. It was only with the staff verification that this incident came to light. There are numerous other examples, some even involving failure to disclose arrests/convictions that the applicant believed were removed from their record and therefore did not need to disclose. Since our office staff reviews these documents every day, they are able to spot these inconsistencies or other “red flags.” Without this knowledge and experience, things would get missed and delays would result in issuing licenses.

This past biennium, the office did a thorough review of its policies, procedures, laws, and rules to identify any inefficient processes and came forth with recommendations to the Board to ensure a more streamlined application process. The Board approved numerous updates brought forth by the office including a new electronic format, updates to the IT and database systems, removal of some requirements that were outdated, and detailed policies on when a license requires further evaluation/examination. It is only with a staff that works exclusively in processing these applications that such trends and proposed changes are spotted, tracked, and brought forth to be addressed by the Board.

Currently, licenses are processed efficiently and expeditiously. The office staff has built important relationships with various constituents. We listen to and receive information from the associations, firms, hospitals, school, licensees, and applicants. When a call or email comes through, it is timely addressed and answered by individuals with the knowledge to handle the inquiries. The Board chair and executive director, by law, are able to issue provisional licenses in between board meetings. We work well

with the hospitals and firms and ALL request for an expedited license have been accommodated.

It should be noted that medical licensure applications may be accompanied by various sensitive and confidential information. Depending on the applicant and history, medical records may be submitted regarding malpractice cases, substance use disorder records may be submitted regarding fitness to practice, etc. Parameters need to be put in place that the records are appropriately handled and are only reviewed and disclosed to necessary personnel. It is unclear how this could occur, and whether the federal laws would even allow for sending such records to a separate executive branch state agency with an office administering fifty licensing boards versus the licensing board.

Finally, the Board obtains criminal history background checks from BCI/FBI as part of the licensure process – which are highly confidential and cannot be shared except directly to the Board of Medicine. It is a class C felony to release any information of the background check (even to say there is nothing on the background check). In checking with BCI, OMB could not request nor receive the background checks under federal law and N.D.C.C. chap. 12-60. OMB also could not be told anything that is contained in the background check (even to say it is clean). It is therefore unclear how this vital piece of the application process would be received, reviewed, and administered. Would the background checks need to requested by and sent to a Board member? The office processed over 600 backgrounds last year. That is a lot of backgrounds to be sent off to Board members who are already busy with their profession. The background checks also have to be matched to the application to verify that the applicant properly disclosed all arrests, convictions, etc. If there was not

disclosure, this requires additional follow up with the applicant on why they failed to disclose – and further requirements of getting the necessary support documents (police report, court docket, sentencing report, etc.). This would then need to somehow be reported back to OMB to issue the license without revealing any confidential information. Such a process would be inefficient and delay licensure versus having a designated staff who can process the background checks on behalf of its board.

Disciplinary Process

The Board, on average, receive more than 175 complaints each year. Upon receiving a complaint, an investigation ensues by the office to gather the information necessary for the Board to make an informed decision on whether the licensee is safe to practice or whether disciplinary action should ensue. There is specialized training needed by the individual who conducts these investigations as they can involve highly technical or sensitive areas. How the investigation is conducted, what materials need to be obtained, etc. will depend on the facts of the underlying complaint and therefore requires an individual experienced to perform such investigations. There is also specialized training for sexual abuse allegations cases. This again is not a routine administrative service but requires and relies upon the specialized training and knowledge of the investigator.

The Board of Medicine, along with other boards, also have confidentiality provisions regarding the underlying investigations in disciplinary proceedings. Under these provisions, the Board of Medicine cannot share certain information even with other licensing boards. This therefore raises the question on how these investigations and records would be kept separate if everything is handled through one office.

Other Office Functions

It would be futile to attempt to lay out all the functions performed by the Board of Medicine's office. The world of medicine is ever evolving. The office is responsible for keeping apprised of national trends and standards – performing the necessary research to bring various matters before the Board for its review, so Board members are able to implement best practices and make informed decisions. This could be anything from a new tool available to expedite the licensure process to new national policies on physician burnout with recommendations on how to address mental health in order to keep our physicians practicing safely. To keep on top of such things, the staff attends trainings, seminars, conferences, reviews journals, collaborates with other state medical boards, works with the Medical Association and Physician Assistant Association, etc. Without its own dedicated staff providing such information and support to the Board, the North Dakota Board of Medicine risks its ability to maintain best practices consistent with national standards.

Lease

Another consequence of this bill is in regard to how will this affect the lease the NDBOM is under and bound by. Where will the new office space be for the proposed administrative staff and would this require the Board to break its lease, thus needing to use funds for penalties? What about all the electronic equipment, furniture, etc.?

Information Technology

This past biennium, the Board of Medicine spent a significant amount of time and money to update its IT services. After an email hack, the Board contracted to obtain a Cyber Security Audit and Assessment to identify vulnerabilities in our IT systems. This

report was then shared to our IT vendors to implement safety and security updates. Numerous time and expenses ensued after this audit/assessment – new contracts were negotiated and entered into for updated services, technology, databases, services, etc. This was a considerable amount of time, work, and expense that would be wasted if forced to move to ITD. The Board would not be able to recoup expenses spent and would be left to pay penalty fees for breaking the contracts. It is unclear, although unlikely, whether our current database vendor would allow for his database/software to be transferred to OMB, in which case, the Board would not only have wasted the money put into its specialized database system, but would arguably now be on the line to pay for a new system to be developed by ITD.

In addition, the IT vendors the Board currently use, are wonderful at getting back to us immediately. The Board does not have an IT person on staff, and therefore, if something comes up, it needs to be addressed immediately so our systems are not down, and licensure processes delayed. Our IT staff continually monitors our services. In a recent example, last week there was a power outage affecting the Board's office. Once the power came back on, our IT vendor was on the phone with me within 10 minutes as they were monitoring the IT systems and noting any that did not come back online. There have also been times when something has come up over the weekend or in the evening, and needing to get this up and running in order to process a license. Our IT vendors are available on weekends and evenings to provide help and services to make sure we operate smoothly. The concern is ITD not having the resources or availability to process things immediately to fill this need of the Board.

In summary, in order to continue expediting licenses, appropriately process disciplinary proceedings, and maintain best practices - the Board of Medicine requires its own dedicated, trained office - which is already in place. The Board would therefore request a do not pass on SB 2337. Thank you for your time and attention and I would be happy to answer any questions.