

1999 HOUSE HUMAN SERVICES

HB 1157

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1157

House Human Services Committee

Conference Committee

Hearing Date 01-12-99

Tape Number	Side A	Side B	Meter #
1	x		0
Committee Clerk Signature <i>Anna Klein</i>			

Minutes:

Mr. Rolf P. Sletten, ND State Board of Medical Examiners, spoke in favor of bill,

(see attached written testimony)

Dr. David A. Rinn, answered questions from attendees and representatives. He serves on the commission of medical examiners, and the board, groups and committees meet and coordinate activities throughout the year. Many issues are brought out and committees read much information related to the bill material. The group responds to complaints as they are noted.

Mr. Dave Peske, ND Medical Association, spoke in favor of the bill, he represents physicians and are not connected to board of medical examiners. The association supports what has been said so far on the bill.

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House Human Services Committee
Bill/Resolution Number Hb 1157
Hearing Date 01-12-99

There was no opposition to the bill.

Chairwomen Price closed the hearing on HB 1157

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1157

House Human Services Committee

Conference Committee

Hearing Date January 18, 1999

Tape Number	Side A	Side B	Meter #
2		X	37.8 - 44.2

Committee Clerk Signature *Susann Lindsteiger*

Minutes:

Committee Discussion.

Rep. CLARA SUE PRICE stated she received a letter and had discussion with the Board of Medical Examiners concerning page 6, line 20. It refers to the super-tech. They are in favor of change radiology to fluoroscopy technologist so it is in line with other language in the bill.

Rep. ROXANNE JENSEN moved to amend the bill.

Rep. CAROL NIEMEIER second the motion

Voice Vote: 13 yeas, 0 nays, 2 absent

Rep. ROXANNE JENSEN moved DO PASS AS AMENDED

Rep. WANDA ROSE second the motion.

Further Committee Discussion

ROLL CALL VOTE #3: 13 yeas, 0 nays, 2 absent

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1157 Amendment to: _____

Requested by Legislative Council _____ Date of Request: 1-4-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

- 2. State fiscal effect in dollar amounts:

1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures:

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: NO Fiscal impact
- b. For the 1999-2001 biennium: "
- c. For the 2001-03 biennium: "

- 4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Signed Rolf Sletten

Typed Name Rolf Sletten

Date Prepared: Jan 9, 1999

Department North Dakota State Board of Medical Examiners

Phone Number 701-328-6500

98116.0101
Title.0200

Adopted by the Human Services Committee
January 18, 1999

VK
1/19/99

HOUSE AMENDMENTS TO HOUSE BILL NO. 1157 **HUMAN SERVICES 1-19-99**

Page 6, line 20, overstrike "radiology" and insert immediately thereafter "fluoroscopy"

Renumber accordingly

HB 1157

Date: 1-18-1999
Roll Call Vote #: 3

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1157

House Human Services Committee

- Subcommittee on _____
- or
- Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By ROXANNE JENSEN Seconded By WANDA ROSE

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre	X	
Robin Weisz - Vice Chairwoman	X		Ralph Metcalf	X	
William R. Devlin	X		Carol A. Niemeier	X	
Pat Galvin	X		Wanda Rose	X	
Dale L. Henegar	X		Sally M. Sandvig		
Roxanne Jensen	X				
Amy N. Kliniske					
Chet Pollert	X				
Todd Porter	X				
Blair Thoreson	X				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Roxanne Jensen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 19, 1999 1:57 p.m.

Module No: HR-11-0846
Carrier: Jensen
Insert LC: 98116.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1157: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1157 was placed on the Sixth order on the calendar.

Page 6, line 20, overstrike "radiology" and insert immediately thereafter "fluoroscopy"

Renumber accordingly

1999 SENATE HUMAN SERVICES

HB 1157

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1157

Senate Human Services Committee

Conference Committee

Hearing Date MARCH 3, 1999

Tape Number	Side A	Side B	Meter #
1	X		5,000
1		X	
3/16/99 1		X	4,360
Committee Clerk Signature <i>Carol Klodejchuk</i>			

Minutes:

The hearing on HB1157 was opened.

ROLF SLETTEN, Director of Board of Medical Examiners, explained bill in written testimony.

SENATOR THANE asked if there were a lot of complaints. MR. SLETTEN answered that they have three regular meetings; about 70 each year. SENATOR LEE asked if there was Positions Assistant or Fluoroscopy Technologist representation on Board. MR. SLETTEN stated that there was no pressure from them to have a representative on the Board. SENATOR DEMERS:

Would the Board object to adding a PA to the investigative Board? MR. SLETTEN: We have a good relationship with that group. We have very, very few complaint against PA's. SENATOR KILZER: When you do an investigation, does the panel A or B actually do the investigation or do you ask other people to investigate. MR. SLETTEN: There have been some instances where members of the panel have done it; for some specialties we hire outside people. SENATOR

Page 2

Senate Human Services Committee

Bill/Resolution Number HB1157

Hearing Date MARCH 3, 1999

KILZER: Under the existing law of mental competency, is every protection of the accused in place with these A and B teams. MR. SLETTEN: Yes, there is no change in process.

Everything is in place for complete confidentiality. SENATOR DEMERS: Do you have an exception token record? MR. SLETTEN: All the work of the commission is confidential by

statute. All the work of the Board of Medical Examiners is public. We are not changing that.

The only information that transfers from the commission's confidential investigative file to the Board of Medical Examiners public file is the information that is introduced as evidence in the hearing or otherwise made a part of the records.

VANCE MAGNUSON, Dept of Insurance, is supportive of this legislation.

The hearing on HB1157 was closed.

Discussion was held on the possibility of an amendment to add PA or FT to panel. SENATOR LEE will look into drafting an amendment.

Discussion was resumed on 3/16/99. The proposed amendments were not adopted. Discussion of 2600 physicians and only 150 PA positions. SENATOR DEMERS moved a DO PASS.

SENATOR KILZER seconded it. Roll call carried 6-0-0. SENATOR DEMERS will carry the bill.

not adopted

March 4, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1157

Page 3, line 20, remove ", each comprised of five members of the board, excluding"

Page 3, line 21, remove "the president" and replace "Four" with "If the investigation is of a physician, four"

Page 3, line 22, after "board" insert "; if the investigation is of a physician assistant, three members of each panel must be physician members of the board and one member must be a physician assistant; and if the investigation is of a fluoroscopy technologist, three members of each panel must be physician members of the board and one member must be a fluoroscopy technologist"

Renumber accordingly

Date: 3/16/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1157

Senate HUMAN SERVICES COMMITTEE Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen De Mers Seconded By Sen Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment Sen De Mers

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 16, 1999 1:04 p.m.

Module No: SR-47-4877
Carrier: DeMers
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1157, as engrossed: Human Services Committee (Sen. Thane, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1157 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1157

North Dakota State
Board of Medical Examiners

ROLF P. SLETTEN
Executive Secretary and Treasurer

LYNETTE LEWIS
Administrative Assistant

TO: CHAIRPERSON PRICE AND THE MEMBERS OF THE HOUSE HEALTH
AND HUMAN SERVICES COMMITTEE

FROM: ROLF P. SLETTEN, EXECUTIVE SECRETARY & TREASURER

RE: HOUSE BILL NO. 1157

DATE: JANUARY 12, 1999

The North Dakota State Board of Medical Examiners offers the following statement in support of House Bill No. 1157:

The North Dakota Board of Medical Examiners has two primary functions; (a) licensure, and; (b) discipline, of the physicians who practice in this state. This bill amends the Board's internal process for investigating complaints against those physicians.

Under the current law, all of our investigations are conducted by a panel called the North Dakota Commission on Medical Competency. The Commission is essentially the investigative arm of the Board of Medical Examiners. This means that all citizen complaints, and any other information that might give rise to a disciplinary action against a North Dakota physician, is funneled to the Commission for investigation. When it has completed its investigation the Commission makes a single decision in each case, i.e., whether or not formal disciplinary proceedings should be brought against the physician who has been investigated.

The Commission is comprised of two physicians appointed by the Board of Medical Examiners, two physicians appointed by the State Medical Association, the Attorney General or her designee, and the State Insurance Commissioner or his designee. The Commission relies

entirely on the Board of Medical Examiners for funding, staffing and office facilities.

The problem arises because, under the current structure, the members of the Board of Medical Examiners are nearly removed from participation in the disciplinary process. The individuals who are appointed to serve on the Board of Medical Examiners (currently nine physicians and one public member) come to the Board with the expectation that they will be intimately involved in both of the Board's primary functions - licensure and discipline. Their peers also have that expectation and, to the extent that they are familiar with the Board's workings, it must be reasonable to believe that the public also expects that the members of the Board of Medical Examiners will be intimately involved in the disciplinary process. In truth, the members of the Board of Medical Examiner have been almost entirely excluded from the disciplinary process. All investigations are conducted by the Commission on Medical Competency. Furthermore, all hearings are held before an administrative law judge and in any event, most cases are resolved by some agreement or stipulation before the case reaches the hearing stage. The net result is that the members of the Board of Medical Examiners have no involvement in the disciplinary proceedings until the last stages of the process when they are asked to approve or disapprove the final results. The process is frustrating for Board members and provides them with very little experience in evaluating and deciding disciplinary issues.

This bill provides that, rather than having investigations conducted by a separate group (the Commission on Medical Competency), the Board will be divided into two panels, each consisting of one public member and four physician members plus the chairman. Panel "A" will investigate one-half of all the complaints which come to the Board's attention and will sit in ultimate judgement of the other half (i.e., the cases it did not investigate). Similarly, Panel "B"

will investigate one-half of the cases and will sit in ultimate judgement of the cases which have been investigated and forwarded on by Panel "A".

This will mean that the Board members are much more involved in the process. They will be much more familiar with the sorts of complaints that are filed by North Dakota citizens. They will develop more expertise in conducting investigations, they will decide what sorts of investigations will be conducted, when they will be conducted, and whether the cases will proceed to formal prosecution. We feel very strongly that they will be better Board members as a result of that experience.

It is very important to note that the two most important safeguards inherent in the current investigative scheme are preserved:

- A. Investigative materials will continue to be confidential, and;
- B. Those individuals who investigate a particular case will not sit in ultimate judgement of that case. In other words, the police will not also be the judges.

We are grateful to the North Dakota Medical Association, the State Attorney General and the State Insurance Commissioner - all of whom have embraced this plan.

The North Dakota Board of Medical Examiners takes its disciplinary function very seriously. The charge which is most often leveled against the medical boards around the country is that they are not active enough in prosecuting disciplinary matters and, for that reason, we are pleased to point out that during the past several years the North Dakota State Board of Medical Examiners has maintained one of the highest rates of serious disciplinary action in the United States. A recent press release further illustrating that point is attached here for your consideration.

PRESS RELEASE

DECEMBER 8, 1998

FOR IMMEDIATE RELEASE

DISCIPLINARY SUMMARY

A comparison of state medical boards recently completed by the U.S. Dept. of Health and Human Services, Office of Inspector General, indicates that during the six year period from 1992 through 1997, the North Dakota Board of Medical Examiners consistently ranked high amongst the most active medical licensing boards in the country.

The study compared the number of serious disciplinary actions prosecuted by each of the state medical boards per 1,000 physicians. The OIG analysts defined "serious disciplinary action" as those disciplinary actions which resulted in probation, suspension of license to practice, or revocation of a physician's license to practice. The report concluded that the Oklahoma, North Dakota and Colorado boards were the three most active medical boards during the period from 1992 through 1997. The report further indicates that during 1992/1993, the North Dakota Board of Medical Examiners maintained the highest rate of serious disciplinary action in the United States. During 1994/1995, the North Dakota Board ranked 8th and in 1996/1997, it ranked 2nd.

"The Board exists for one purpose, that purpose is to protect the public", said Rolf Sletten, the Board's Executive Secretary. "We take that obligation very seriously and for that reason we are very pleased by this report." He cautions, however, that such statistics should never be used to draw any adverse conclusion about the quality of medicine practiced in North Dakota. In truth, he says "The quality of medicine practiced in this state is generally very high.

This report certainly does not suggest that North Dakota has more problem physicians than other states, however, it does indicate that as compared to other state medical boards, the North Dakota Board of Medical Examiners is a very active and diligent board".

The Board of Medical Examiners is charged with regulating the practice of medicine in North Dakota. The Board's primary functions are the licensure and discipline of physicians who practice in this state. The current members of the Board are Mukesh V. Patel, M.D., Chairman (Tioga); Wallace E. Radtke, M.D., Vice-Chairman (Fargo); Vani Nagala, M.D., Treasurer (Oakes); David A. Rinn, M.D., (Minot); Kathleen A. Wood, M.D., (Grand Forks); John P. Joyce, M.D., (Hettinger); Ms. Kathy M. Ibach (Bismarck); Zachary Q. Morris, M.D., (Bismarck); Thomas W. Kempf, M.D., (Fargo); and; Mickey G. Syrquin, D.O., (Fargo).

The Board functions with the assistance of a separate panel called the North Dakota Commission on Medical Competency. The Commission serves as the investigative arm of the Board of Medical Examiners. It is the Commission's duty to investigate any information which could give rise to a disciplinary action against a physician (including all patient complaints) and to determine which cases will be prosecuted before the Board of Medical Examiners. The current members of the North Dakota Commission on Medical Competency are Heidi M.K. Heitkamp or Thomas A. Mayer, Office of the Attorney General (Bismarck); Vance Magnuson, Office of the Insurance Commissioner (Bismarck); David A. Rinn, M.D. (Minot); Kathleen A. Wood, M.D. (Grand Forks); Paul B. Knudson, M.D. (Bismarck); and; Joanne M. Pearson, M.D. (Fargo).

North Dakota State
Board of Medical Examiners

ROLF P. SLETTEN
Executive Secretary and Treasurer

LYNETTE LEWIS
Administrative Assistant

January 14, 1999

Rep. Clara Sue Price
Chairperson
House Health and Human Services Committee
Bismarck, ND 58501

Re: HB 1157

Dear Representative Price:

Yesterday you asked me whether we agree that Line 20 on Page 6 of this bill should refer to "fluoroscopy technologists" rather than "radiology technologists". We agree that change should be made. Thank you.

Sincerely,



ROLF P. SLETTEN
Executive Secretary
and Treasurer

RPS:kg

North Dakota State
Board of Medical Examiners

ROLF P. SLETTEN
Executive Secretary and Treasurer

LYNETTE LEWIS
Administrative Assistant

TO: CHAIRMAN THANE AND THE MEMBERS OF THE SENATE HUMAN SERVICES COMMITTEE

FROM: ROLF P. SLETTEN, EXECUTIVE SECRETARY & TREASURER

RE: HOUSE BILL NO. 1157

DATE: MARCH 2, 1999

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