2009 SENATE HUMAN SERVICES

SB 2158

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2158

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 01/20/2009

Recorder Job Number: 7308, 7355

Committee Clerk Signature Mary K Monson

Minutes:

Senator Lee Opened the hearing on SB 2158. Introduced the bill. This bill will allow advanced registered nurse practitioners to be considered primary care providers in the medical assistance program. In the private sector, nurse practitioners are allowed to be primary care providers but in the Medicaid program they are not. I defer to others with more information and expertise on this subject. I encourage a favorable review of this bill.

Senator Dever I would expect there to be some kind of fiscal impact but I do not see a fiscal note. Am I wrong?

Senator Lee We hadn't really thought of that. There is a potential for it to be less due to the reimbursement of nurse practitioners (NP). You will notice in the bill that we are not asking for comparable reimbursement to physicians, that is not what these NP are asking for or any enhancement of reimbursements. What we are looking at is people having access to care. Gave example of Medicaid situation with NP's currently. This bill should be reducing costs.

Representative Potter District #17. Spoke in support of 2158. We heard a lot about this issue in the Medicaid interim advisory committee. I think this bill is very reasonable and something we should be doing. What we are asking for Medicaid people in this bill is currently being done

for Medicare people. I do not understand why there is a difference; I hope you all conclude that this is a very reasonable thing to be doing.

Representative Hofstad District #15. Spoke in support of 2158. District #15 is a very rural district and such one of our challenges is access to medical care. Because we are not allowed to assign NP sas primary care givers we waste a lot of time and hardship to give people access to medical care. Read a narrative describing the health care situation of a particular rural patient and her difficulty getting care.

Cheryl Rising FNP, President of the ND Nurse Practitioner Association, works for Medcenter One. Spoke in support of 2158. See attachment #1.

Dr. Biron Baker Family practice physician. Spoke in support of 2158. See attachment #2.

Senator Lee Do you see NP as professional players on the team?

Baker Absolutely

Senator Dever What is the NP scope of practice?

Baker NP's are good at recognizing what is within their body of knowledge and deciding if they can handle it. Their scope of practice is clearly defined.

Senator Heckaman So this bill is primarily aimed at allowing referrals to be done? Are there any other care practices involved that this bill would address?

Baker To my understanding, this is the meat of the bill. We want to allow NP's to do what they already do.

Cheryl Rising I wanted to make one comment on the scope of practice that was brought up. Every NP has a scope of practice that is on file at the board of nursing and we must practice within that scope of practice. If we cannot handle the situation, we immediately refer/defer.

Senator Lee And NP's have specialties just like other areas of nursing?

Rising That is correct, you have additional training in a specialty if you specialize.

Senator Dever Can you tell us the difference between a physician's assistant (PA) and a nurse practitioner?

Rising A PA has different training than a NP. I believe that another person can better address that. The PAs are under a medical model and they are under the board of medical examiners. NPs have additional training in the nursing model and under the board of nursing. NPs have to have a masters and in 2015 must have their doctorate. Must start with an RN and move through masters and doctorate to become a NP.

Senator Dever Do they do the same thing as PAs?

Rising There are different areas that are delineated and I'm probably not the person to answer that but I do know there are some differences in prescribing.

Briefly discussed differences between PAs and NPs.

Kris Todd FNP. Spoke in support of 2158. See attachment #3.

Gwen Witzel FNP. Spoke in support of 2158. See attachment #4. This bill will improve access to health care in rural areas particularly in areas where there is a NP but not a residing doctor. Talked about her personal experience as a NP in a rural area.

Senator Dever Are there times where you recommend a referral but the doctor denies it?

Witzel I have never had that happen because I have a very close working relationship with physicians.

Senator Pomeroy Do you see any downsides to this bill that we should be aware of?

Witzel I personally see no downsides to this. There was a question about finances, when we visited with the Medicaid people we discussed this with them. The Medicaid department saw this as cost neutral.

Karen Larson presented testimony from **Sharon Erickson.** Spoke in support. See attachment #5.

Dr. Constance Kalanek Executive Director of the ND Board of Nursing. Spoke in support of 2158. See attachment #6. Addressed some questions raised by previous testifiers.

Senator Dever Is Medicaid the only area where referrals from NPs are not recognized?

Dr. Kalanek I would have to defer to others.

Duane Houdek Executive Secretary of the ND State Board of Medical Examiners. Spoke in opposition to 2158. See attachment #7. Addressed some questions about PAs. PAs participate in everything, the clinical training is very rigorous. I mention that because if the committee decides to go forward with this proposal, I would urge you to add PAs to this bill. There really is no reason to distinguish between the two in this instance.

Further discussion about the difference between a PA and NP and why the division exists. Primary distinction deals with practice of medicine practiced by PAs and the practice of nursing as practiced by NPs.

Bruce Levi Executive Director of the ND Medical Association. Spoke in opposition to 2158. See attachment #8.

Senator Dever I would imagine that the Medical Association is represented on the Medicaid advisory council?

Levi Yes

Senator Dever Are NPs and PAs included on that council?

Levi My understanding that there was a request to add NPs but I do not know if that happened. I don't know about PAs.

Erik Elkin Assistant Director of the Medical Services Division for DHS. Gave neutral testimony on 2158.

Senator Dever Has there been some reluctance on the part of the department to make this change?

Elkin No, we started out with an information gathering process from both sides. From there we gathered information that went to the Medicare Medicaid advisory committee for discussion and in that committee both sides presented. Significant discussion happened but there was not a formal recommendation made. It was decided that it would be left up to the legislature.

Senator Lee Would you like to comment on the fiscal impact?

Elkin We did look at that. It's difficult to figure out the impact looking at both situations. We could try but it was difficult to quantify.

Senator Dever My question would be is the impact significant and is it positive?

Senator Lee and how do we figure that out? We probably need some history. I see how it could be hard to know how it will all shake out.

Elkin It would be helpful to get some history.

Senator Lee I visited with the health care association. They said that they don't have any reservations about the bill nor do the people from blue cross blue shield.

Senator Lee closed the hearing on SB 2158.

Job #7355

Senator Lee Reopened the discussion on SB 2158.

Discussed adding an amendment to include PAs in the bill. Questioned whether PAs work under physicians but NP's work independently. Also discussed where NPs and PAs work within the state.

Senator Lee I think PAs and NPs work independently in partnerships with physicians. I think they rely on them a lot in rural areas.

Senator Erbele My main concern with adding PAs is the difference in education level.

Senator Lee I think each practice is in their own silo so I am not so concerned about that. I am wondering if this is too simple.

Senator Erbele I think we are only talking about Medicaid patients. I have no problem if the PAs are only Medicaid too.

Senator Lee Discussed additional information she had located. See attachment #10. She also spoke with Cheryl Rising and she said that the fastest way to move the process along was through legislation.

Billie Madler Was present from the Bismarck and ND NP association. She made herself available to clarify any questions people might have.

Senator Lee The frustration is that on one hand the group is being told it would be faster to go through the legislature but on the other hand we do not want to mess up the Medicaid Management Information System. I want the bill to pass but if we move forward, I want to know what the schedule will be. We are trying to look out for everyone's issues and be time sensitive.

Billie Madler Stated her name for the record.

Senator Lee Are PAs already identified as primary care providers?

Madler No they're not.

Senator Lee Is there any reason why wouldn't look at both of these professionals being included?

Madler We came to the table for the purpose of including our association so I am not sure if the PAs are asking the same thing or not. If I were asked my collegiality or relationship with PAs, I work with many of them and it is very confusing within and amongst health care professionals about the differences between PAs and NPs. I think it is because at the patient care sites the tasks are much the same. I don't think the PAs would have a problem being included in the bill but I can't speak for them. They are serving lots of rural communities as well.

Senator Lee Hear's my thought; we have two houses in ND for a reason. The NPs came to us in the senate asking to be included as primary care providers. The PAs did not come and say they want to be included in this. If we move this forward, they will have the opportunity to do that in the house and we can concur or have a conference committee. I am reluctant to add a practice that we have not reviewed.

Senator Erbele I am more comfortable with the bill as is. If someone wants to add testimony, I am ok with that.

Discussed adding PAs. The committee was receptive to the idea but wanted to have more information.

Senator Dever Are there areas in the state that are not covered by NP's or physicians that would be covered by PAs?

Madler I don't think I could answer that. Gave anecdotal information.

Senator Dever Is it easier to get referrals between a physician and a PA?

Madler I don't think I can answer that either. I can only speak to my own requirements and collaborative relationships with physicians.

Discussion about collaborative relationships.

Senator Dever I don't think we have enough information on PAs.

Senator Lee Agreed with Senator Dever.

Senator Dever I think the only question we have is about the time frame of adoption.

Senator Lee We need to hear back from the department on that. The devil is in the details, otherwise we have no problems.

Senator Lee suspended the discussion on SB 2158

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2158

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 01/21/2009

Recorder Job Number: 7469

Committee Clerk Signature	Mary K Mason

Minutes:

Senator Lee Reopened discussion on SB 2158. I spoke with Carol Olson and she said that she thought this was going to have to through administrative rules. Jennifer Clark from legislative council drafted the bill and was visiting with the DHS who prepared an amendment which will not bypass administrative rules but will stipulate in the amendment that they would have the same responsibility as PAs which is already in administrative rules. We should be able to move it quickly. We are going to discuss how to get this through with Medicaid so we have realistic expectations. We have about 90 days from the day the Government signs to get the MMIS waiver.

Discussion about how to write the bill and get it through in a timely and efficient manner.

Senator Lee suspended the discussion on SB 2158

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2158

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 01/26/2009

Recorder Job Number: 7771

Committee Clerk Signature	Mary K Monson

Minutes:

Senator Lee Reopened the discussion on SB 2158. Discussed the proposed amendment 90147.21 from DHS. Do we have any concerns?

Julie (last name unknown) Representing the ND Nurse Practitioner Association. The NPs do not have any problems with the language. We understand the DHS did this to expedite the process of implementing this so the administrative rules process could be avoided. We understand that we can still do everything that we want to do within our specified scope of practice.

Senator Lee Carol Olson made it clear that they were anxious to facilitate this. The only thing we need to keep in mind is that this is going to keep in mind how many new responsibilities for DHS this will create. They will be ready to do this as quickly as they can and will try to get this processed as quickly as they can.

Julie Last week there was testimony that the delay may be due to the computer system. When I spoke with someone in DHS (name unknown), they thought it would not be due to the computer system but because they have too much work to deal with staff wise. I just want to make sure that this is not a delay due to a computer thing.

Senator Lee We understand that. This is primarily a timing issue. Carol Olson wants this implemented ASAP.

Senator Heckaman I move to adopt the amendment to SB 2158.

Senator Erbele Second.

The Clerk called the role on the motion to adopt the amendment. **Yes: 5, No: 0, Absent: 1.**

Senator Heckaman I move **Do Pass as Amended**

Senator Pomeroy Second

The Clerk called the role on the motion to **Do Pass as Amended. Yes: 5, No: 0, Absent: 1.**

The vote was left open for Senator Marcellais.

The final vote was Yes: 6, No: 0, Absent: 0.

Senator Lee will carry the bill.

90147.0201
Title.0300

Prepared by the Legislative Council staff for
Senator J. Lee
January 22, 2009

1-27-09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2158

Page 1, line 9, replace ". The department shall seek any federal waiver" with "with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the advanced registered nurse practitioner as a primary care provider under the medical assistance program must be within the scope of the advanced registered nurse practitioner's license."

Page 1, remove lines 10 and 11

Renumber accordingly

Date: 1-26-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2158

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90147.0201

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Rerefer to Appropriations

☒ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

Date: 1-26-09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2158

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90147.0201 Title .0300

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Rerefer to Appropriations

☐ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. J. Lee

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

REPORT OF STANDING COMMITTEE

SB 2158: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2158 was placed on the Sixth order on the calendar.

Page 1, line 9, replace ". The department shall seek any federal waiver" with "with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the advanced registered nurse practitioner as a primary care provider under the medical assistance program must be within the scope of the advanced registered nurse practitioner's license."

Page 1, remove lines 10 and 11

Renumber accordingly

2009 HOUSE HUMAN SERVICES

SB 2158

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2158**

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: **3 March 2009**

Recorder Job Number: 10039

Committee Clerk Signature

Minutes:

Chairman Weisz opened discussion of SB 2158.

Senator Judy Lee, District 13, introduced with the bill. This will allow all of us to choose to have a nurse practitioner for a primary physician. Before you can be referred to a specialist or anything of that sort, they have to first have an appointment with a physician who can refer them on. That means not only an additional cost but more important, there is a delay in the care. This will allow nurse practitioners to make a referral. Every state in the union did at one time have nurse practitioners as primary care providers then when the federal government mandated that each state program would have to do its own. That's what we are doing now and states around us have already named nurse practitioners as primary care providers and I think it is an appropriate thing for us to do.

Chairman Weisz: I assume that this will shave our Medicaid costs as well.

Senator Lee: That is true. We didn't count on that for our fiscal impact.

Representative Louise Potter, District 17, added her support to the bill. Medicare people can have a nurse practitioner as a primary provider but Medicaid people cannot. I found that interesting.

Representative Curt Hofstad, District 13, spoke in favor of the bill. The issue that we have before you is a road block for nurse practitioners as they treat Medicaid patients. (He gave a history of a practitioner in his district trying to treat a patient.)

Cheryl Rising, FNP, Medcenter One, testified in favor of the bill. **(Attachment 1)**

Representative Porter: In your map with the locations it shows that is their residence. How many places are out there where a nurse practitioner is practicing and there isn't a physician in the community.

Rising: I don't have those facts. It varies and it changes.

Representative Frantsvog: You state in your testimony that back in 1997 the balanced budget act gave authority for this program back to the states but ND chose the managed care system. Why did ND choose that?

Rising: I am unable to answer that question. I know they chose the managed care plan. My understanding, and I was just new, when they chose the positions who could be a primary care provider, they left out the nurse practitioner. Without going back and asking those people why they did that, I wouldn't be able to answer that honestly.

Representative Frantsvog: What is the opposition from the Board of Medical Examiners?

Rising: They are here and can answer that.

Dr. Biron Baker, family practice physician, Q&R Clinic, testified in favor of the bill. **(Attachment 2)**

Representative Porter: Medicaid makes up about 7 – 10% of pay mix in an urban practice. When you look at referral patterns and potential misuse of referrals that physicians would have to oversee, wouldn't we already be seeing that because the other pay mixes that are out there. Is anyone hearing any problems with Medicare referrals?

Baker: I don't see any and I do not think anything would change. The only change I can foresee is I would get out of the way as a middleman and that would reduce costs.

Representative Porter: Do you think there is any risk back on you for rubber stamping referrals of patients that you have not even seen?

Baker: It's not a rubber stamping. It's an added expense because I make them come and see me. I'm repeating work that has already been done. I'm reevaluating someone who has already been down that road.

Kris Todd, FNP, Dakota Osteoporosis, testified in favor of the bill. **(Attachment 3)** Her testimony included a list of individuals and organizations that signed petitions or letter of support for allowing nurse practitioners as primary care providers and a letter of support from **Charles Allen.**

Chairman Weisz: How many nurse practitioners are practicing in the state of ND?

Todd: About 350.

Gwen Witzel, FNP, Langdon and Walhalla, ND, testified in favor of the bill. **(Attachment 4)**

Karen Larson, deputy director, Community Services Association, testified in favor of the bill. **(Attachment 5)**

Representative Porter: In one of the rural clinics if a patient comes in with a broken arm and its Tuesday afternoon at 3 o'clock and the nurse practitioner feels the patient needs to see an orthopedic surgeon right away and it's a Medicaid patient. How would that work out?

Larson: That nurse practitioner would need to contact a physician and hopefully get it signed as quickly as possible.

Representative Porter: Let's say you can't find a doctor to sign—what happens to the patient?

Larson: I would hope that good care outweighs anything else and if I felt I could not properly handle that particular fracture, I would refer the person to get the care they needed. What has happened in our community is if you cannot find a physician and it is emergency situation, we send them anyway and we just take the hit and don't get paid if it doesn't get approved.

Representative Hofstad: If that referral is signed and the physician does not see that patient, how is he billed?

Larson: I have not been involved in that. I understand there is some type of payment to the physician but I don't know for sure. I can check and get back to you.

Linda Johnson Wertz, AARP ND, testified in favor. We are supporters of SB 2158.

Erik Elkins, assistant director of Medical Services Division, ND Department of Human Services, provided information for the Committee. **(Attachment 6)** There are significant changes that need to be made before this bill could be implemented and the Department is asking for a delayed implementation.

Chairman Weisz: Would you have a billing issue if you . . .

Elkins: For the referral—we don't receive a billing fee for that. For each patient that has chosen this physician to be their primary care case manager gets a $2 per member per month fee.

Chairman Weisz: In a situation where they saw a nurse practitioner and then they had to go to the physician to see him again to get a referral, you are paying twice in that situation.

Elkins: That is correct.

Representative Conrad: (Inaudible.)

Elkins: We would not be changing the scope of practice for the nurse practitioner. They would also be eligible for that $2 per member per month.

Representative Porter: Who wouldn't get paid in that scenario described?

Elkins: The specialty physician that sees that patient.

Representative Porter: So the tonsillectomy is performed, the bill is laying there and it is no one's fault and the punishment goes back to the specialty physician.

Elkins: In that scenario that would happen, however, we do review individual cases and we do allow for retro referrals so in that instance every individual case and we review those. There is the possibility to get a retro referral and receive payment for the service.

Representative Conrad: How many times does this happen that you do retro referral?

Elkins: I can't give you exact numbers. It doesn't happen frequently and it's on a case by case basis. We don't keep statistics on that.

Opposition:

Duane Houdek, executive secretary, ND State Board of Medical Examiners, testified in opposition to the bill. **(Attachment 7)** He distributed a proposed amendment that would add physician assistants to the bill. **(Attachment 8)**

Chairman Weisz: It is interesting that you seem to be concerned about moving mid-level care to primary and now you brought on these too.

Houdek: I think this is a legitimate debate and it is ongoing. If your position is that this is better, then I don't know how you distinguish between the two. We also have this situation with physician assistants.

Chairman Weisz: I am surprised there is no data available. Even if this passes, there is no prohibition to have the doctor do the referral.

Houdek: There would be no prohibition for a doctor to do the referral. I haven't seen a direct comparison or an overall cost analysis. That's what you need to do.

Representative Conrad: Did physician's assistants ask for this?

Houdek: I don't know if the association has asked it. We represent the licensing of both nurse practitioners and physician's assistants and this is always our perspective. We are not trying to promote one trade over the other. We are looking at this always as public safety and access and how they intertwine. That came just from our board.

Representative Frantsvog: What's the difference in education and training?

Houdek: I can speak for physician assistants. There are two types practicing in ND. First, there was a requirement to get in to PA school at UND that you had to have experience and training as a nurse first. Then you had one year of additional training at the med school. The training is the medical model of training not the nursing model of training. Now they require a bachelor's degree for entry and then it is five semesters of training.

Representative Uglem: How many PAs are there in ND? Do surrounding states do the same with PAs? Do you know of any sites were both practice at the same site particularly in rural ND?

Houdek: About 240. I do not know what surrounding states do. In West River they employ both in their outlying clinics and in their main one in Hettinger. I'm sure there are others.

Kim Kroler, vice president of the ND Medical Association, testified in opposition to the bill. She distributed the testimony of **Bruce Levi**. **(Attachment 9)**

Chairman Weisz: Do you have a position on the suggested amendment to add physician assistants.

Kroler: We do not have a position?

Representative Uglem: Do you know approximately how many Medicaid patients there are in the state?

Kroler: I do not.

Representative Potter: Is there a difference between the care of people on Medicare or Medicaid.

Kroler: There are differences in the regulations of the payer. Medicare patients are usually older and often the Medicaid patients are younger.

Chairman Weisz: Ms Wagner could you tell us about the educational requirements for these positions?

Ms. Wagner: The educational requirement of a nurse practitioner: Master's degree in nursing, (inaudible) in 2015 everyone will have to have their doctorate in nursing. Already some of the programs have changed over. You will take a national certificate test.

Representative Porter: In order to get in to the program currently you need a master's degree? Or do you get it after you complete the program.

Wagner: You have your bachelor's degree in nursing, then you go on to your master's program and coming out of the master's degree you now would have your nurse practitioner.

Representative Conrad: How did you come to your recommendation?

Elkins: We met several times with the medical association, the ND nurses association, the board of medical examiners; we invited the board of nursing to attend as well. Back in 2007 we met two times to discuss this issue. Both sides of the table were there. At that time it was determined that we should refer this to the Medicaid Medical Advisory Committee for discussion. We met two times with them. Both of those times both sides presented their case. There really wasn't a formal recommendation made to the department out of that committee. At that time it was agreed it was a major policy issue and acknowledgement was made by the committee to refer it to the Legislature.

Representative Conrad: So the advisory committee was unwilling to give you advice.

Elkins: There was no formal recommendation.

There was no further testimony so Chairman Weisz closed the hearing of SB 2158.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2158

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10167

Committee Clerk Signature Vicky Crabtree

Minutes:

Chairman Weisz: SB 2158.

Rep. Porter: Move Board of Medical Examiners Amendment.

Rep. Uglem: Second.

Chairman Weisz: Rep. Porter did check with the Blues and they do pay for (inaudible), it's not an issue.

Rep. Conrad: They didn't even come in and ask for it. I don't even know if they want it.

Rep. Porter: The Licensing Board did. The argument of access and the red tape that exists again this only relates to referrals. The same red take that exists for nurse practitioners exists for the physician's assistants that they have to track down a doctor and some doctors require that a patient be seen again and there is an additional charge back to the Medicaid program on both the nurse practitioner's and physician assistant's side. According to BC/BS they have physician assistant functioning as primary care providers in ND as they do with nurse practitioners.

Rep. Conrad: Rep. Porter you have persuaded me.

Rep. Frantsvog: Does anyone know what the education requirements are for physician assistants?

Chairman Weisz: The pharmacology is the same as for a doctor.

Rep. Frantsvog: Just a class?

Rep. Porter: Mr. Houdek from the board, testified that recently the physician's assistants in ND to get into the program had to have a nursing background and then 2000 additional hours of training. No it is a bachelor of science degree doesn't necessarily have to be a nursing background, and then have 5 semesters or 2 ½ years of (dropped sentence).

Rep. Porter: Even under the Medicare program both a physician assistant and a nurse practitioner can be the primary care provider, what they can't do is refer patients. And that is all we are saying. They can both refer patients.

Chairman Weisz: Technically they are not a primary care provider, they are providing the primary care. They are reimbursed for providing the primary care and the other physician is listed as the primary care physician.

Rep. Potter: I agree with all of that, but as Rep. Conrad noted and would like to note too, that care taking not even one physician assistant showed up. The lobbyist did, but not one physician assistant. It's aggravating to me that not one showed up to testify.

Chairman Weisz: It is a good point.

Rep. Hofstad: If we don't include them now, we are likely to see them again next session anyway.

Voice Vote on Motion: 11 yeas, 2 nays 0 absent.

MOTION CARRIED DO PASS.

Rep. Porter: Testimony from the department I was not very happy. Seems like when a problem is identified and the legislature fixes the problem that the department can sit around and do nothing and if no push to get your stuff together and get it in gear and it get it sent in.

Now they are saying even when this bill passes it won't be until January 1, 2010 before this will take place. I would add a section 2 and 3 to the amendment.

Chairman Weisz: Before you make a motion, I got an e-mail from the department and the Senate did look at tacking an emergency clause on. The department's position is it isn't an issue with EMS as they have 90 days to respond. I will take time to train workers. Felt enough issues in training staff to have until January 1 to complete it.

Rep. Porter: I'm sure their concern is the $2 a month per person that now becomes the nurse practitioners (everyone talking at once) individual. There is nothing in this that says the department has to submit this for however long. And we have seen that in the past where they just sit on these and all of a sudden December 2010 they submit it and then say, well we haven't gotten an answer back yet, it takes 90 days. And in 90 days we won't be here again. I'm not going to make the motion, but I am going to read the language and if everyone feels the same way as I do, I will certainly move it. Section 2 would read, "within 30 days of this act becoming law, the department must submit an amended state plane to CMS." That puts them on a timeline to submit the plan. The maximum time they could take from this act becoming law would be 120 days because CMS technically has 90 days. Section 3 would be an emergency clause so when signed into law the clock starts ticking and improve the time line from January 2010 to November of 2009.

Rep. Porter: Move we further amend SB 2158 to incude Section 2 stating, "within 30 days of this act becoming law, the department must submit an amended state plan to CMS. Section 3 would be an emergency clause

Rep. Potter: Second.

Voice Vote: 13 yeas, 0 nays, 0 absent.

MOTION CARRIED DO PASS

Rep. Kilichowski: Move for a DO PASS AS AMENDED.

Rep. Hofstad: Second.

Roll Call Vote: 13 yes, 0 no, 0 absent.

MOTION CARRIED DO PASS.

BILL CARRIER: Rep. Porter.

Adopted by the Human Services Committee
March 4, 2009

VR 3/5/09

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2158

Page 1, line 3, after "practitioners" insert "and physician assistants; to provide for legislative intent; and to declare an emergency"

Page 1, line 8, after "**practitioners**" insert "**and physician assistants**"

Page 1, line 9, after "practitioners" insert "and physician assistants"

Page 1, line 11, after "practitioner" insert "or physician assistant"

Page 1, line 12, after "practitioner's" insert "or physician assistant's" and after the underscored period insert:

"**SECTION 2. DEPARTMENT TO SUBMIT AMENDED PLAN.** Within thirty days of the effective date of this Act, the department of human services shall submit for approval an amended state plan to implement section 1 of this Act.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3-4-09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2158

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. Porter Seconded By Rep. Uglem

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTSVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Total (Yes) 11 No 2

Absent 0

Bill Carrier _____

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

Move to accept Board of Medical Examiners amend.

DO PASS

Date: 3-4-09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2158

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. PORTER Seconded By Rep. Potter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTSVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Voice Vote

Total (Yes) 13 No 0

Absent 0

Bill Carrier _____

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

Rep. Porter's amendments.

Motion carried

Date: 3-4-09
Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2158

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Rep. Kilichowski Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 13 No 0

Absent _____

Bill Carrier Rep. PORTER

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

REPORT OF STANDING COMMITTEE

SB 2158, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2158 was placed on the Sixth order on the calendar.

Page 1, line 3, after "practitioners" insert "and physician assistants; to provide for legislative intent; and to declare an emergency"

Page 1, line 8, after "**practitioners**" insert "**and physician assistants**"

Page 1, line 9, after "practitioners" insert "and physician assistants"

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"**SECTION 2. DEPARTMENT TO SUBMIT AMENDED PLAN.** Within thirty days of the effective date of this Act, the department of human services shall submit for approval an amended state plan to implement section 1 of this Act.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2009 SENATE HUMAN SERVICES

CONFERENCE COMMITTEE

SB 2158

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2158

Senate Human Services Committee

☒ Check here for Conference Committee

Hearing Date: 4-15-09

Recorder Job Number: 11866

Committee Clerk Signature Mary K Monson

Minutes:

Senator J. Lee opened the conference committee meeting on SB 2158. All members were present: Senator J. Lee, Senator Dever, Senator Heckaman, Rep. Uglem, Rep. Nathe, and Rep. Conrad.

Rep. Uglem explained that they added the physician assistants in addition to nurse practitioners at the request of the medical board. Section two was added to make sure the Dept. of Human Services gets their application in quickly to change the plan and the emergency clause was put on so they can act quickly.

Senator J. Lee made some observations that the nurse practitioners did their work ahead of time and are regulated by the Board of Nursing. The physician assistants are licensed by the Board of Medical Examiners and the PA's have not done the work that has been done to get ready to be approved as primary care practitioners yet. The Board of Medical Examiners opposed this until the last second.

The timetables can't be the same because the nurse practitioners are ready to go and the physician assistants are not.

Part of the committee discussion is whether they should be included now when they have never requested that they be added. If the answer is yes they should, then the question is how

to deal with it so the nurse practitioners can be moved forward without delays since they are ready.

Rep. Conrad - how long will it take them to be prepared?

Senator J. Lee didn't know but said she would try to find out.

Rep. Uglem was under the impression that they're working within the scope of the physician assistant's license so they would be limited to what they can do by their license. As they update their skills their license would reflect it.

Senator J. Lee asked Maggie Anderson if there is a difference between Medicaid primary care provider situations.

Ms. Anderson, Dept. of Human Services, explained that the unique difference specifically related to Medicaid is that they currently enroll nurse practitioners as providers in Medicaid and they don't currently enroll Physician Assistants. System changes they would have to make for physician assistants would be different and she went on to explain what they would need to do (meter 05:25).

Rep. Nathe asked if adding the physician assistants complicates the process for the dept.

Ms. Anderson replied that it makes it difficult to make all the system changes and have the training done by the time the Governor signs the bill.

Senator J. Lee, in anticipation of this discussion, had an amendment that would separate the two but allow the physician assistants to go through. (Amendment dated April 13, 2009) (Meter 07:45) She explained the amendment and the problems with having an emergency clause.

Rep. Conrad asked when people could expect this from a consumer standpoint.

The time frame was explained by Ms. Anderson. They would do it as soon as possible – maybe 4 months for the nurse practitioners but the physician assistants wouldn't be until they roll out the new MMIS - May 1, 2010.

Senator Dever recalled that, in the Senate committee conversations, a big part of the justification for nurse practitioners separate from physician assistants was that they are more likely to be operating in sole practice in a rural area and physician assistants don't do that as much. He wasn't sure the application of the physician assistants was necessary.

Senator J. Lee asked if the House had that discussion about the scope of practice for PA's.

Rep. Uglem replied that even though right now the PA isn't as active, in rural areas it is going more and more toward the NP's and PA's.

Senator Dever said the question in his mind is if they are improving access to health care by expanding this to include PA's.

Senator J. Lee said they really didn't know the distribution of PA's in the state. She thought if it was important to the Board of Medical Examiners somebody would have been there to represent that group. She favored NP's because they all have at least a Masters Degree. Not all PA's do.

Senator Heckaman asked if other states have the PA's in the Medicaid provider.

Ms. Anderson – South Dakota does under a supervising physician and Montana does.

Rep. Conrad said part of their discussion was "why cut off the option?" They couldn't find a good reason why not.

Senator J. Lee said she would get more information on the timetable required for them, the distribution throughout the state, and how many might be in independent practice.

Rep. Nathe said that he had struggled with this also because the Board was against it at one point but wanted to add the PA's if it was passed. It was in their testimony at the end.

There was agreement among the committee with section 3 and 4 of the amendment.

Senator J. Lee said their main topic of discussion at the next meeting would be on how to implement the PA's in the loop.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2158

Senate Human Services Committee

☒ Check here for Conference Committee

Hearing Date: April 20, 2009

Recorder Job Number: 12014

Committee Clerk Signature	Mary K Monson

Minutes:

Senator Dever opened the meeting of the conference committee. All members were present. (Senator Judy Lee, Senator Dever, Senator Heckaman, Representative Uglem, Representative Nathe, Representative Conrad)

Senator Judy Lee said she has received an email from Duane Houdek, Executive Secretary, Board of Medical Examiners (attached) that is a response to the questions from the committee. The first question was about the distribution of PAs across North Dakota. He said about 240 PAs, over 40% practice in a town other than Fargo, Bismarck, Grand Forks and Minot. He does not have a map of their distribution. She read his answer about PA practice. (5.21) She asked Maggie Anderson to answer some questions about Medicaid rules.

Maggie Anderson, Department of Human Services, said the Medicaid program is currently allowing nurse practitioners to enroll as providers and they receive a Medicaid provider number and they are able to bill the department directly for their services. They currently do not allow physician assistants to do that. They will have to go out and enroll PAs, determine their specialties and set them up in their systems so it will take a little more time than it will with the NPs.

Senator Judy Lee asked what is the most practical timetable for adding PAs as primary care providers.

Maggie Anderson said it would be most practical after MMIS, they would get it done if the legislature wanted it done earlier. They would have to balance it with the other system changes. The last six months before they roll out the new system will be very time consuming, they are reenrolling all providers.

Senator Judy Lee clarified that it would be very time consuming and the NPs are already on the system.

There were no PAs present at the meeting.

Senator Judy Lee mentioned a letter from a physician who had a very good experience with NPs but has a little more concern with including PAs.

Senator Dever asked if NPs work independently and their relationship with a physician is collaborative.

Sheryl Rising, Nurse Practitioner, said they work independently and they are under the Board of Nursing but they have a collaborative agreement if they are prescribing medications.

Senator Dever said NPs are in a position to bill for their services where a PA is working under the supervision of a physician and everything works through that relationship.

Sheryl Rising said it depends on what the working relationship is. In her work in a long term care facility where she sees Medicare, Medicaid and private pay patients, she bills directly for her services. She collaborates with physicians when she feels she is outside of her scope of practice or she wants to be sure they are doing correct treatment. A PA could also come into that roll but would need to have supervision to the level the Board of Medical Examiners agreed to. They would be able to directly bill for those services, through the physician. Many

other PAs at MedCenter One bill through a physician but they can bill independently for other insurances.

Senator Judy Lee asked Rob St. Aubyn to answer questions.

Rob Senator Taylor. Aubyn, Blue Cross Blue Shield, said there is a specific provision in Century Code for the direct reimbursement for NPs and they do the same for PAs. It is at a reduced rate, 85% of the established fees for physicians. PAs and NPs are treated the same.

Senator Judy Lee confirmed the billing would be identical.

Senator Judy Lee discussed PA billing. (13.34)

Representative Uglem said he would still like to see the PA in there for those who are qualified. It is not a major item.

Senator Judy Lee said you would think at least one would show up in support and no one has. She would like to throw out for discussion that they go ahead with the NPs for now and if the PAs wish to come back in and request inclusion in the next session, they can. Maybe we will hear from people active in the profession.

Representative Conrad said they were included for the consumer. No PAs or consumers have come through for PAs. They did come forward for NPs. Was Mr. Houdek busy today?

Senator Judy Lee said she told him when the meeting was. You think if there was any real passion for this, someone would have been here.

Representative Conrad moved the House recede from the House amendment and adopt section 3, seconded by Representative Nathe.

Representative Uglem asked if we need the emergency clause.

Senator Judy Lee said they had discussed within 30 days of the effective date. She thinks they should amend that in. (19.01) We need section 3.

Maggie Anderson clarified they would have 30 days after the bill is signed for it to take effect.

Senator Dever asked if this was contingent upon approval by CMS.

Maggie Anderson said since it is already in federal regulations there will be no problem with approval.

There was discussion of the emergency clause and section 3 (22.15)

The motion passed 6 – 0 – 0.

Date: 4-15-09

Roll Call Vote #: _____

2009 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB2158 as (re) engrossed

Senate Human Services Committee

☒ Check here for **Conference Committee**

Action Taken
- ☐ SENATE accede to House Amendments
- ☐ SENATE accede to House Amendments and further amend
- ☐ HOUSE recede from House Amendments
- ☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ pages(s) _____--_____

- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

Motion Made By _____ Seconded By _____

Senators	4/15/09			Yes	No		Representatives	4/15/09			Yes	No
Senator J. Lee	P						**Rep. Uglem**	P				
Senator Dever	P						**Rep. Nathe**	P				
Senator Heckaman	P						**Rep. Conrad**	P				

Vote Count _____ Yes _____ No _____ Absent

Senate Carrier _____ **House Carrier** _____

LC NO._____._____ of amendment

LC NO._____._____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2158

That the House recede from its amendments as printed on page 709 of the Senate Journal and pages 820-821 of the House Journal and that Engrossed Senate Bill No. 2158 be amended as follows:

Page 1, line 3, after "practitioners" insert "; to provide for legislative intent; and to declare an emergency"

Page 1, line 12, after the underscored period insert:

"**SECTION 2. DEPARTMENT TO SUBMIT AMENDED PLAN.** Within thirty days of the effective date of this Act, the department of human services shall submit for approval an amended state plan to implement section 1 of this Act.

Renumber accordingly

Adopted by the Conference Committee
April 20, 2009

4-21-09

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2158

That the House recede from its amendments as printed on page 709 of the Senate Journal and pages 820 and 821 of the House Journal and that Engrossed Senate Bill No. 2158 be amended as follows:

Page 1, after line 12, insert:

"**SECTION 2. DEPARTMENT TO SUBMIT AMENDED PLAN.** Within thirty days of the effective date of section 1 of this Act, the department of human services shall submit for approval an amended state plan to implement section 1 of this Act."

Renumber accordingly

Date: 4-20-09

Roll Call Vote #: _____

2009 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB2158 as (re)engrossed

Senate Human Services Committee

☒ Check here for **Conference Committee**

Action Taken
- ☐ SENATE accede to House Amendments
- ☐ SENATE accede to House Amendments and further amend
- ☐ HOUSE recede from House Amendments
- ☒ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ pages(s) 709 --_____

- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 2158 was placed on the Seventh order of business on the calendar.

Motion Made By Rep. Conrad Seconded By Rep. Nathe

Senators				Yes	No		Representatives				Yes	No
Senator J. Lee	P			✓			Rep. Uglem	P			✓	
Senator Dever	P			✓			Rep. Nathe	P			✓	
Senator Heckaman	P			✓			Rep. Conrad	P			✓	

Vote Count 6 Yes 0 No 0 Absent

Senate Carrier _____ **House Carrier** _____

LC NO. 90147 . 0303 of amendment

LC NO. _____ . _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

REPORT OF CONFERENCE COMMITTEE

SB 2158, as engrossed: Your conference committee (Sens. J. Lee, Dever, Heckaman and Reps. Uglem, Nathe, Conrad) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 709, adopt amendments as follows, and place SB 2158 on the Seventh order:

That the House recede from its amendments as printed on page 709 of the Senate Journal and pages 820 and 821 of the House Journal and that Engrossed Senate Bill No. 2158 be amended as follows:

Page 1, after line 12, insert:

"**SECTION 2. DEPARTMENT TO SUBMIT AMENDED PLAN.** Within thirty days of the effective date of section 1 of this Act, the department of human services shall submit for approval an amended state plan to implement section 1 of this Act."

Renumber accordingly

Engrossed SB 2158 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

SB 2158

#1

Testimony in Support of SB 2158
Cheryl Rising, RN, MS, CNRN, FNP
Jan. 20, 2009
Senate Human Services Committee

Madam Chairman Lee and members of the committee. I am Cheryl Rising, FNP. I work at Medcenter One in Bismarck, ND and am president of the North Dakota Nurse Practitioner Association. I represent nurse practitioners and nurse practitioner students throughout North Dakota.

I am here to testify in support of senate bill 2158. Nurse Practitioners are playing an ever increasing role in health care delivery. As you can see by this map, nurse practitioners are working in all corners of the state, serving people in many, many rural areas as well as our large communities.

I am here to ask for your support on SB 2158. We are asking for nurse practitioners to be able to serve as primary care providers for Medicaid patients. Nurse practitioners were able to be primary care providers for Medicaid patients until 1997. In 1997 federal legislation, the balanced budget act gave authority for this program back to the states. North Dakota chose a managed care system and did not include nurse practitioners in the language to be primary care providers. We are the only state in the region that does not allow nurse practitioners to be primary care providers for Medicaid patients. (See US MAP).

Nurse practitioners are able to be primary care providers for all other insurances in North Dakota. We have been working for two years to get the language changed in the Medicaid rules. We have had meetings with the Medicaid department, presented to the human services committee, met with Lieutenant Governor, the Board of Medical Examiners and the Executive Director of Medical Association. The Medicaid department would not change the ruling due to the opposition from the Board of Medical Examiners. We have been directed to bring this bill here.

Nurse practitioners already care for Medicaid patients. The Board of Nursing has reviewed this request and sent a letter to the Governor stating this is within our scope of practice, this will not change or affect our collaborative agreement.

The Medicaid patient sees who ever the provider is in their community. Nurse practitioners assess, diagnose and treat. If the Medicaid patient needs a referral a nurse practitioner is unable to refer because a nurse practitioner can not be named primary care provider. Only the designated primary care provider can refer and in North Dakota that is an MD. The Medicaid patient must then see their primary care provider to get approval for referral or the primary care provider must sign the approval. This limits access to care and creates barriers for patients.

SB 2158 eliminates this barrier.

The nurse practitioner or MD that sees the Medicaid patient and assesses, diagnosis, and treats should be the one to determine referral, refer, do the necessary paper work and follow up.

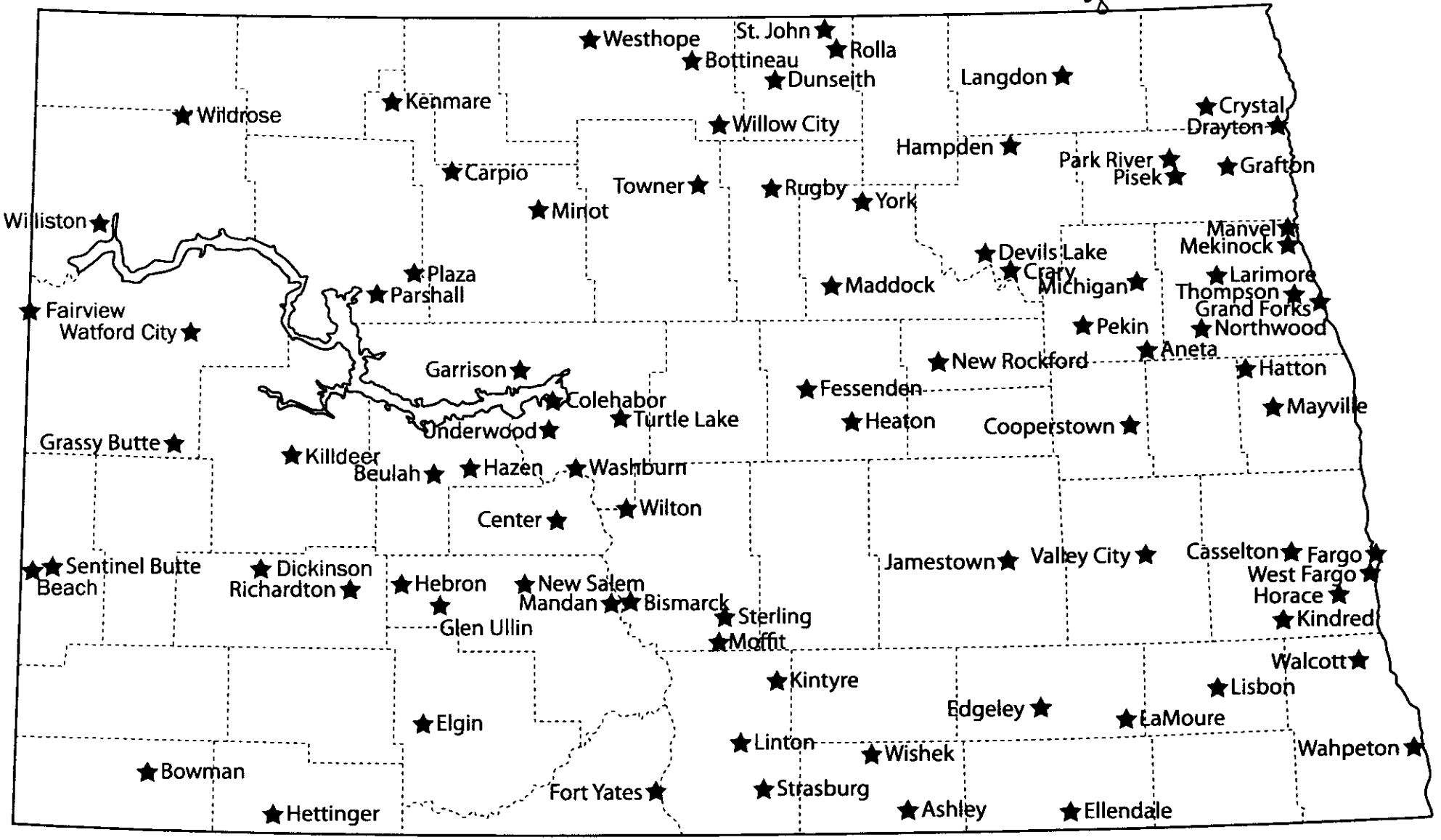
We urge you to support this change. Thank you for this time to address this issue. I would be happy to answer any questions.

Cheryl Rising, RN, MS, CNRN, FNP
905 Dodge Circle
Bismarck, ND 58503

Home number 701-258-1169
Cell number 701-527-2583
Work cell number 701-471-7203

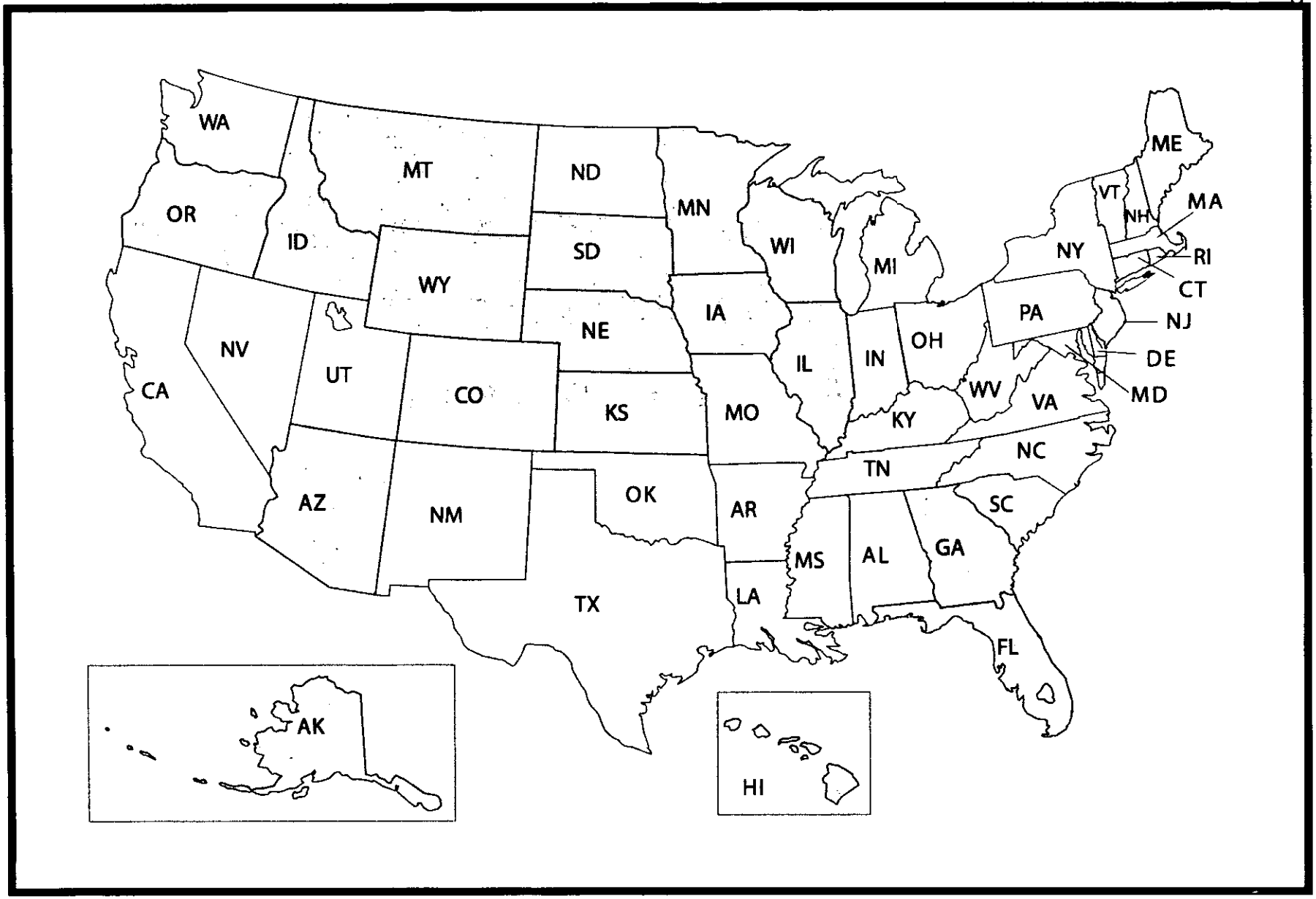
NORTH DAKOTA NURSE PRACTITIONER RESIDENCE

Same handout given to House.



STATES THAT RECOGNIZE NURSE PRACTITIONERS AS PRIMARY CARE PROVIDERS FOR MEDICAID

Same handout given to House.



NORTH DAKOTA BOARD OF NURSING

919 S 7th St., Suite 504, Bismarck, ND 58504-5881
Telephone: (701) 328-9777 Fax: (701) 328-9785
Web Site Address: http://www.ndbon.org

Workplace Impairment Program: (701) 328-9783

Maggie Anderson, Director

Division of Medical Services

600 East Boulevard Avenue

Bismarck, North Dakota 58505-0250

Dear Ms. Anderson:

The North Dakota Board of Nursing met on September 20, 2007 and discussed Nurse Practitioners as Primary Care Providers for Medicaid Recipients. The North Dakota Board of Nursing reviewed the NDAC Chapter 54-05-03.1 Advanced Practice Registered Nurse as it relates to the scope of practice as an advanced practice registered nurse. The Board also reviewed NDAC 75-02-02-08. Amount, duration and scope of medical assistance, e-mail summaries of previous meetings hosted by your division, report of the North Dakota Nurse Practitioner Survey, copy of proposed S 59 federal legislation and an excerpt of the minutes of the July Board Meeting of the ND Board of Medical Examiners which indicated opposition "to giving nurse practitioners status as primary care providers". A presentation was also made regarding this discussion by Cheryl Rising, RN, FNP and Gwen Witzel RN, FNP.

The following motion was made by Anderson, second by Tello Pool and passed by the Board members, eight yes, one absent:

I move that The North Dakota Board of Nursing support a rule revision by the North Dakota Department of Human Services to allow Nurse Practitioners to act as primary care providers for Medicaid Recipients based on section 54-05-03.1-03.2 Scope of practice as an advanced practice registered nurse.

Thank you for this opportunity to provide input on this discussion.

Sincerely,

Constance Kalanek

Constance B. Kalanek, PhD, RN, FRE

Executive Director

CC: Senator Kent Conrad Office

#2

Same given to House.

Testimony in Support of SB 2158
Dr. Biron Baker
Jan. 20, 2009
Senate Human Services Committee

Chairman Lee and members of the committee. My name is Dr. Biron Baker. I'm a family practice physician in my 14th year of practice. I'm on staff at Q&R Clinic in Bismarck.

I'm here today to testify in support of SB 2158 which will allow nurse practitioners to serve as primary care providers for Medicaid patients.

There are several compelling reasons to make this change. First, Medicaid patients are already being served by nurse practitioners. In fact, throughout our state nurse practitioners are examining, diagnosing, treating and referring patients with all different kinds of private insurance and Medicare.

Likewise, nurse practitioners can examine, diagnose and treat Medicaid patients. But they can not refer them. This restriction creates extra paper work and bureaucracy in our system without any added benefit to the patient or insurance provider.

Second, most physicians are overloaded with Medicaid patients. We need to embrace some measures to reduce this backlog. SB 2158 is a simple change that would help improve access to care and help open up the system.

I work closely with nurse practitioners every day and am very comfortable with the care they provide and their ability to make smart, cost-effective referrals for all the patients including Medicaid patients.

Thank you for taking up this measure. I urge you to send a unanimous "do pass" recommendation to the Senate for SB 2158.

I'm happy to answer any questions.

#3

Testimony in Support of SB 2158
Kris Todd, FNP
Bismarck

Same given to House.

Madame Chair and Human Services Committee members,

My name is Kris Todd. I am a FNP. I own and am sole provider at Dakota Osteoporosis in Bismarck.

I want to thank Dr. Baker for speaking on our behalf as well as the other supporters of SB 2158 who have shared their experiences.

We have received a number of signatures and letters of support for this change from physicians and organizations. Copies of these letters and petitions are included in your packet.

I would like to share two of these letters to you today.

Letter from R Petty, MD

Letter from S Robinson, DO

As secretary of NDNPA I have also been receiving information from members who live and work in rural North Dakota. Clinics throughout the state have different ways of handling the referral process when Medicaid patients need to be sent to a specialist. The informal survey information is placed on a spreadsheet for you.

In closing, I would encourage you to help Medicaid patients receive the same healthcare benefit that other insured patients do by supporting this bill and recommending a unanimous do-pass for the full Senate.

Thank you.

Same handout given to House.

Supporters of SB 2158
Nurse Practitioners as Primary Care Providers

The following individuals and organizations have signed petitions or letters of support for allowing nurse practitioners as primary care providers

Charles Allen, DO	Bismarck
Biron Baker, MD	Bismarck
Larry daSilva, MD	Bismarck
Russell Emery, MD	Bismarck
Denise McDonough, MD	Bismarck
David Penguilly, MD	Bismarck
Stuart Smith, MD	Bismarck
Sherry Stein, MD	Bismarck
Eric Thompson, MD	Bismarck
Michelle Tincher, MD	Bismarck
Terry Wolf, DO	Bismarck
Basem Fanous, DPM	Cando
Elias Daniolos, MD	Cavalier *
Harvey Hope, President	Cavalier County Memorial Hospital Association
Russ Petty, MD	Devils Lake
Mark Hinrichs, MD	Dickinson
Brian O'Hara, MD	Dickinson
Bruce Olin, MD	Dickinson
Cory Rathgeber, MD	Dickinson
Dennis Wolf, MD	Dickinson
Susan Farkas, MD	Fargo
Kushal Handa, MD	Fargo
Vern Harshenko, MD	Garrison
Robert Clayburgh, MD	Grand Forks
Kristi Midgarden, MD	Grand Forks *
Mark Peterson, MD	Grand Forks
SK Patel, MD	Langdon
Sandra Robinson, DO	Langdon
Gretchen Belzer-Curl	Mandan
Darwin Lange, MD	Mandan
Tony Johnson, MD	Mandan
Tom Thorson, MD	Mandan
Jeffrey Verhey, MD	Minot
Jim Opdahl, Administrator	Richardton Memorial Hospital (RMH)
John Gengler, President	RMH Board
Clare Messmer	RMH Board
Donna Reick	RMH Board
Vickie Solemsaas	RMH Board
Kathy Huestle	RMH Board
Jerome Messer	RMH Board
Gerald Aluise	RMH Board

The North Dakota Nurse Leadership Council

Kris Todd

From: "Amy Cox" <amycox@tcmedcenter.com>
To: "Kris Todd" <ktodd@bis.midco.net>
Sent: Friday, January 16, 2009 2:49 PM
Subject: FW: physician letter

From: Russ Petty [mailto:rpetty@tcmedcenter.com]
Sent: Wednesday, January 14, 2009 8:58 PM
To: amycox@tcmedcenter.com
Subject: y

Amy, you may use this as you see fit.

January 14, 2009
I am in full support of allowing nurse practitioners to serve as PCP's for North Dakota medical assistance patients. The TCMC/DLCC system consists of three board certified family physicians, two nurse practitioners and two physician's assistants. Our two NPs have ten and eighteen years of experience respectively. They utilize sound medical judgment in making referrals to specialists. Many of our MA patients receive the majority of their care from the mid-level providers, so that the PCP physician is not always aware of acute and chronic medical conditions that would benefit from a referral to a specialist. Requiring the PCP physician to complete the referral paperwork creates more paperwork and a delay in the referral process. Potentially it can add to medical costs by requiring a separate visit with the physician in order to make the actual referral. I have not observed any animosity or reluctance for specialists to accept referral from our NPs.
Russ Petty MD

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

DATE January 16, 2009

Dear Senators,

I'm a physician in Garrison, N.D., and have been practicing in the field of Family medicine for several years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

I currently am a collaborating physician for several Family Nurse Practitioners that practice in rural areas. Because they are not recognized as Primary Providers I have to sign off on referrals for Medicaid patients via fax. These are patients I have no contact with and will probably not ever see in the future. Having my signature on the referral makes no sense. The Nurse Practitioners are providing all of the care so should have the privilege of being a Primary Provider.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Vern Harshenko MD
Garrison Family Clinic
437 3rd Ave SE
Garrison, ND 58540

Same handout given to House.

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave. Bismarck, ND 58505

January 19, 2009

Dear Senators,

I'm a physician in Bismarck, N.D., and have been practicing in the field of emergency medicine for 20 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

Nurse Practitioners in the state of North Dakota are allowed to evaluate, order testing and prescription medications without interacting with a physician. They are the primary care providers for many individuals and families in rural North Dakota. Many patients in this state would delay or avoid medical care if they were to have to travel. I believe allowing patients the ability to designate a nurse practitioner as their primary care provider will improve the overall healthcare of our state.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Charles O. Allen, DO, FACEP, FACOEP
1708 Canyon Drive
Bismarck, ND 58503

TRINITY
Medical Group

PULMONARY & CRITICAL CARE

JEFFREY T. VERHEY, M.D.
Board Certified in Pulmonary and Critical Care Medicine

HEIDI BENDER, FNP-C
Family Nurse Practitioner

January 19, 2009

North Dakota Senate Human Services Committee
Senator Judy Lee, Chair
Senator Robert Erbele, Vice Chair
Senator Dick Dever
Senator Joan Heckman
Senator Richard Marcellais
Senator Jim Pomeroy
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Senators:

I am a physician in Minot, North Dakota and I have been practicing in the field of pulmonary and critical care medicine for the last 12 years. I am writing to encourage you to support senate bill 2158 which recognizes nurse practitioners as primary care providers for Medicaid patients.

During my time in North Dakota I have had the opportunity to work with many nurse practitioners. Their work has always been very professional, and they have provided a valuable service to the citizens of North Dakota. While other insurance carriers recognize nurse practitioners as their primary care provider for patients, Medicaid does not. This seems to me to be an unfair practice. I also feel that it would impair some patients ability to see a primary care provider and adversely affect their health.

My support of senate bill 2158 is my personal opinion. I do not speak on behalf of any other organization with this letter. I do feel; however, that nurse practitioners should be allowed to be the primary care provider for patients in some of the very rural areas where access to care is very limited.

Thank you for your careful consideration. I urge you to support this bill and recommend a unanimous do pass motion for the full senate.

Yours truly,

JEFFREY VERHEY, MD

JV/lrp

Health Center - East, Suite 203
20 Burdick Expressway West
Minot, North Dakota 58701

Telephone: 701-857-5741
1-800-862-0005 (ND)
Fax: 701-857-5089
www.trinityhealth.org

Affiliated with Trinity Health

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

January 19, 2009

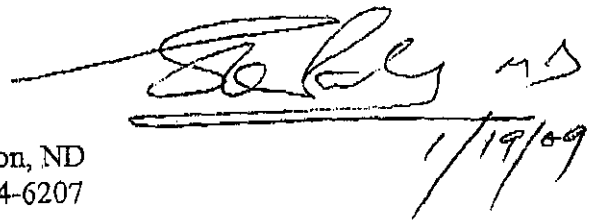
Dear Senators,

I'm a physician in Langdon, N.D. and have been practicing in the field of internal medicine/ primary care for 37 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

I have worked in rural communities in North Dakota for the past 29 years. Some of the communities including Tioga, Elgin, Wishek and Langdon have Nurse Practitioners who have been in these areas for many years and provide primary care to the Medicaid population. I am in full support of the rule change to allow Nurse Practitioners to be recognized as the primary care providers as the provider seeing the patient should also be signing the paperwork. This will improve the efficiency and continuity of care. I see no reason for a physician who has never seen the patient to sign for a referral or to have the patient schedule another visit for the purpose for referral paperwork to be signed. I foresee in the future many of the smaller communities will not have any physicians and all primary care will be provided by the Nurse Practitioners. A yes vote on SB 2158 will eliminate barriers and increase access to the health care providers in the community.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,



1/19/09

Dr SK Patel MD
CCMH clinic- Langdon, ND
Cell phone- 1-719-314-6207

CAVALIER COUNTY MEMORIAL HOSPITAL
909 SECOND STREET LANGDON, ND 58249 PH: 701-256-6100 FAX: 701-256-2730
www.cavaliercountyhospital.com

January 16, 2009

RE: ND State Senate Bill 2158 Physician Support

I Support Senate Bill 2158 because:

I am a Family Practice Physician in a Frontier Rural Practice in Langdon, North Dakota. I am colleague to 3 very competent and active Certified Family Nurse Practitioners who have proven to have excellent sound medical judgment of their patient's needs. We share the responsibility for the populous of Cavalier County. The work load is demanding and the patients are complex with many complex extended Medical needs. Of this population are Medicaid Patients for which we all manage. The CFNP's utilize sound medical judgment in making referrals to specialists. Many of our Medicaid patients receive the majority of their care from the mid-level providers. Due to our time constraints and the scope of our medical care, I am not always as aware of acute and chronic medical conditions of their individual patients in their patient panel that would benefit from a referral to a specialist, as I have not even met some of these patients yet.

Requiring the Primary Care Physician, me, to complete the referral paperwork creates more paperwork and a delay in the referral process. To this population of patients I am in full support of allowing nurse practitioners to serve as PCP's for North Dakota medical assistance patients too. This one group should not be excluded from equal recognition and treatment by Nurse practitioner partners in this rural frontier location, since all other insured populations do recognize the FNP as a PCP.

The Cavalier County Memorial Hospital and Clinic system consists of one Board Certified Family Physician and three Certified Nurse Practitioners and one Board Certified Internist. Requiring the PCP physician to complete the referral paperwork creates more paperwork and a delay in the referral process. Potentially it can add to medical costs by requiring a separate visit with the physician in order to make the actual referral, thus delaying the actual consult and adding to the overall cost of health care delivery. I have not observed any reluctance, animosity or refusals from specialists due to referral from our CFNPs.

Sandra Jean Robinson, DO
Chief of Staff, Cavalier County Coroner, and Cavalier County Public Health Director

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

January 19, 2009

Dear Senators,

I'm a physician in Dickinson, N.D., and have been practicing in the field of Internal Medicine and Pediatrics for 20 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Brian O' Hara, MD
Great Plains Clinic
33 9th Street West
Dickinson, ND

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

January 19, 2009

Dear Senators,

I'm a physician in Dickinson, N.D., and have been practicing in the field of Family and Addiction Medicine for 47 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Dennis Wolf, MD
Great Plains Clinic
33 9th Street West
Dickinson, ND

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

January 19, 2009

Dear Senators,

I'm a physician in Dickinson, N.D., and have been practicing in the field of Internal Medicine for 28 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Mark Hinrichs, MD
Great Plains Clinic
33 9th Street West
Dickinson, ND

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

January 19, 2009

Dear Senators,

I'm a physician in Dickinson, N.D., and have been practicing in the field of family medicine for 11 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Cory Rathgeber (Cory Rathgeber MD)
Great Plains Clinic
33 9th Street West
Dickinson, ND

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

January 19, 2009

Dear Senators,

I'm a physician in Dickinson, N.D., and have been practicing in the field of Internal Medicine for 20 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Bruce Olin, MD
Great Plains Clinic
33 9th Street West
Dickinson, ND

Senate Human Services Committee
Sen. Judy, Lee, Chair
Sen. Robert Erbele, Vice Chairman
Sen. Dick Dever
Sen. Joan Heckaman
Sen. Richard Marcellais
Sen. Jim Pomeroy
600 E. Boulevard Ave.
Bismarck, ND 58505

January 19, 2009

Dear Senators,

I'm a physician in Park River, N.D., and have been practicing in the field of family medicine for 11 years. I'm writing to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

I am in full support of allowing nurse practitioners to serve as primary care providers for ND medical assistance patients. I currently work with nurse practitioners in our clinic and find that they use sound medical judgement in making referrals to specialists. There are numerous situations where a midlevel provider could see MA patients, but requiring the PCP physician to complete the referral paperwork creates a further delay in the referral process and another burden on the busy physician. I have had no problems with specialists accepting referrals from our NPs.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

K Midgarden MD.

Kristi Midgarden, MD
Family Medicine Associates
503 Park St. W
Park River, ND 58270
(701) 284-6663
(701) 732-2700

North Dakota Medicaid PCP Fact Sheet:

Needed:
A language change in the North Dakota Medicaid rules and regulations to recognize Nurse Practitioners as primary care providers (PCP) for the Medicaid population.

History:
Prior to 1997 Nurse Practitioners were recognized in all states as primary care providers for the Medicaid population. In 1997 our federal government passed the Balanced Budget Act which changed the Medicaid program. It was no longer managed by the federal government but was changed so each state would manage their own program. It was at the state's discretion on how they chose to run the program. If the state chose a fee for service program NP's were still recognized as primary care providers. Other states, including ND, chose a managed care model and in this they designated who could be recognized as primary care providers. In North Dakota family practice physicians, obstetricians and pediatricians are recognized but Nurse Practitioners are excluded.

Problem:
Nurse practitioners are providing primary care services to all patients in their communities. A Medicaid recipient is required to name a physician, on paper, as their PCP, but in reality they see whomever is available in their local clinic or ER. Very often that provider is a nurse practitioner. If a Medicaid recipient only requires primary or urgent care they most often will only see the NP that provides care in their community. According to Medicaid rules, if the Medicaid recipient needs a referral for specialty care such as a surgeon, cardiologist or ENT specialist they need to have the referral form signed by a physician. This sets up barriers to health care and extra time and money to accomplish getting the referral done. The patient will need to see the physician for a signature, many times requiring travel away from their home community to another facility where the physicians practice is.

Nurse practitioners are recognized as primary care providers for all other health insurance programs including BC/BS, Medicare, Tricare and private insurance companies. Requiring the Medicaid recipient to go through extra steps, and clinic visits to accomplish what everyone else can do with their NP primary care provider is an unnecessary barrier.

The Solution:
Change the language in the North Dakota Medicaid rules and regulations to include Nurse Practitioners in the list of primary care providers.

North Dakota Nurse Practitioner Association:
President- Christine Peterson- Bowman <cpeterson@swhealthcare.net>
Vice Pres- Cheryl Rising- Bismarck <scottdrising@earthlink.net>
Secretary- Danielle Skaar- Hampden <daniskaar@hotmail.com>
Treasurer- Kristie Todd- Bismarck <ktodd@bis.midco.net>
ND State Rep. for American Academy of Nurse Practitioners- Gwen Witzel- Langdon <gtwitzel@utma.com>

Kristi Midgarden M.D.
Matthew S Nisato, MD
Grand Forks

I support the change in the language in the North Dakota Medicaid rules and regulations to include Nurse Practitioners in the list of primary care providers.

SIGNATURES:

[illegible] MD	Cardiology	- Fargo
[illegible]	Family Practice	- Langdon
[illegible]	Cardiology	- Fargo
[illegible]	[illegible]	- Cando
[illegible]	Surgery	- Cavalier
[illegible]	[illegible]	- Langdon
		-
[illegible]		- Grand Forks

- Don't make me have to get Ben Claybaugh get after you regarding this!

Richardson

I support the change in the language in the North Dakota Medicaid rules and regulations to include Nurse Practitioners in the list of primary care providers.

SIGNATURES:

Admin Richardson Hospital
RMH Board
RMH Board
RMH Board
RMH Board
RMH Board
RMH Board

Fort Totten

I support the change in the language in the North Dakota Medicaid rules and regulations to include Nurse Practitioners in the list of primary care providers.

SIGNATURES:

[illegible]

Cheryl Hefta NP

[illegible]

[illegible]

Jane Liske

[illegible]

Nancy G. Robertson

I support the change in the language in the North Dakota Medicaid rules and regulations to include Nurse Practitioners in the list of primary care providers.

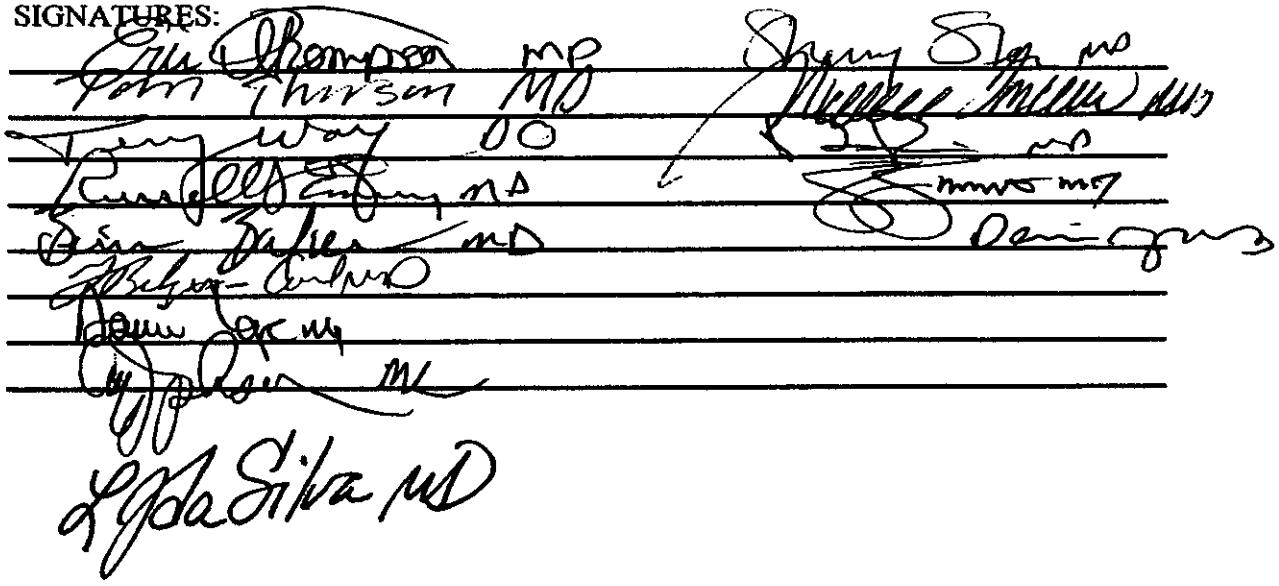
SIGNATURES:

Julann J Stimmie, DNP 7/17/08

Medcenter One

I support the change in the language in the North Dakota Medicaid rules and regulations to include Nurse Practitioners in the list of primary care providers.

SIGNATURES:



CORPORATE RESOLUTION
OF
CAVALIER COUNTY MEMORIAL HOSPITAL ASSOCIATION (CCMH)

WHEREAS, it is the mission of CCMH to serve the public by providing access to quality healthcare services; and

WHEREAS, CCMH employs Nurse Practitioners to aid in furtherance of its mission of providing quality health care; and

WHEREAS, Nurse Practitioners are recognized as primary care providers by BC/BS, Medicare, Tricare, and private insurance companies; and

WHEREAS, current North Dakota Medicaid rules do not recognize Nurse Practitioners as primary care providers; and

WHEREAS, it is within the scope of practice of Nurse Practitioners to refer to specialists; and

WHEREAS, the Board of Directors of CCMH believes that in North Dakota, and especially rural North Dakota, the use of Nurse Practitioners advances the goal of providing quality health care to all persons;

THEREFORE, BE IT RESOLVED, the Board of Directors of CCMH unanimously supports change to the definition of a Primary Care Provider to include Nurse Practitioners.

Harvey L. Hope

Harvey Hope, President

Unanimously adopted May 21, 2008

referral process

Facility	NPs	PAs	MD	Referral process
Devils Lake Community Clinic			60-70% of time	MD sign without seeing pt
Grafton Migrant Health	3		0	MD from other clinic signs without seeing pt
Stanley	1			
Kenmare	1			
Rolla Clinic	1	3	1	presigned referral from in clinic
Beach	2		0	
Killdeer	2		0	
Mohall		1	0	
Turtle Lake	2			
McClusky	1			
Washburn	1			fax referrals to Garrison MDs
Langdon	3		1	MD sign without seeing pt, pt waits if MD gone
Wahalla	1		0	
Trinity/Garrison	1		0	fax to collaborator in Minot
Garrison Family Clinic		2	2	
Washburn	2		0	fax to collaborator in Steele
Richardton Community Clinic	1 d/wk	3d/wk	1d/wk	fax to MD in Dickinson
Elgin Community Clinic	2		2d/wk	fax to MD in Steele
Elgin Clinic		1		
Great Plains Clinic/Dickinson	2	3	7	MD signs without seeing pt

#14

Same to given to House.

Testimony in Support of SB 2148
Gwen Witzel
Family Nurse Practitioner
Communities of Langdon and Walhalla, ND
10643 111th Ave NE Langdon, ND 58249
701-256-5845

Madam Chairman and members of the committee my name is Gwen Witzel a family nurse practitioner who works in the rural communities of Langdon and Walhalla, N.D. I'm in favor of this bill because a change in the rule to allow Nurse Practitioners to act as primary care providers will significantly improve access to health care in the rural areas and eliminate the barriers that are now in place.

As you have heard by the previous testimony, Nurse Practitioners are providing primary care services to people of all ages with no restrictions accept for the Medicaid recipient.

Let me give you a couple examples from my practice that illustrate why this bill is needed:

I have cared for a young child for 3 years. She sees no other health care provider other than me. She had recurrent tonsillitis so I referred her to an ENT specialist for an opinion regarding the need for a tonsillectomy. The specialist agreed that this would be the most appropriate treatment and referred her back to myself for a pre-op physical which I did and sent the child on for the surgery. I realized after the surgery that the child was insured by Medicaid and because I am not a "physician" they did not recognize me as the PCP so the referral was denied.

Another situation occurred with an older gentleman who came in to me at the clinic with severe congestive heart failure. I admitted him to our local critical access hospital for acute treatment and further evaluation which I was 100 percent in charge of because I was the only health care provider in town during that time period. He had appropriate treatment and cardiac evaluation with an Echocardiogram indicating his ejection fraction was 25 percent. The man recovered from the acute congestive heart failure nicely but required follow up with a cardiologist due to his severe systolic dysfunction.

I, being a nurse practitioner, can cover the clinic, ER and hospital without on-site back-up from a physician. But, upon discharge I was not able to sign the referral paper to refer this man on to a cardiologist. Three days later when a physician was available I had a MD who did not know or ever meet this man sign the referral form.

In another clinic a young women felt a breast lump. She was seen by the local Nurse Practitioner and had a clinical breast exam, mammogram and an ultrasound all of which indicated this was a suspicious mass and would require a surgical consult for biopsy. The Nurse Practitioner at that point took the referral form to the Medicaid recipient's named primary care provider (PCP) and asked for a signature so she could have the referral.

The MD who is the PCP "on paper" was not familiar with this patient, had never met her and felt uncomfortable signing a form for a patient she did not know. Rightly so, in my opinion, a provider should not sign their name to any form if they haven't seen the patient. Eventually the patient was scheduled back to the local clinic with an MD who signed the referral form and treatment was received. This was approximately one month later and it was a breast cancer.

Some people argue that having an MD as the primary care provide is needed for "checks and balances" in the system and to guarantee safe treatment. I argue that having someone sign their name on a form without seeing the patient (which happens the majority of the time) does not improve safety.

Also Nurse Practitioners are recognized as primary care providers by all other health insurances and there have been multiple studies showing high quality and safe practice of nurse practitioners. Changing this rule to allow nurse practitioners to be recognized as the PCP for Medicaid recipients in no way changes the scope of our practice. The Nurse Practitioner's scope of practice does not require MD oversight. It is within our scope to refer patients on to other providers when the care needed cannot be received in our local clinic.

Another argument is that changing this rule may increase the cost of the Medicaid program because the nurse practitioners might make inappropriate referrals. There is no documentation to support that a NP is any more likely than a physician to make an inappropriate referral. Also multiple other states in our region recognize NP's as primary care providers and there have not been any issues in these states with inappropriate referrals.

The Medicaid recipient is the least advantaged person in our community and has the fewest resources for travel so why are we requiring this group of people to jump through hoops to get the same care that is already provided by nurse practitioners to patient's with all other health insurance coverage or private pay.

I am requesting your support and yes vote for Senate Bill 2158.

#4

Same handout given to House.

Nurse Practitioners as Primary Care Providers
Senate Bill 2158

What is SB 2158?

- Legislation allowing Nurse Practitioners to serve as primary care providers for the Medicaid insurance program.

- Nurse practitioners are recognized as primary care providers for all other health insurance programs including BC/BS, Medicare, Tricare and private insurance companies.

Why is it needed?

- Nurse practitioners are providing primary care services to all patients, including Medicaid patients, throughout North Dakota. In many rural areas, nurse practitioners provide the majority of primary care services to patients.

- However, Medicaid recipients are not allowed to designate a nurse practitioner as their official primary care provider (PCP).

- If a Medicaid recipient needs a referral for a specialist such as a surgeon, cardiologist or ENT specialist, they must acquire this referral from a physician even though nurse practitioners are fully qualified and recognized by all other insurance programs to provide this referral.

- This creates an unnecessary barrier to health care, wasting time and money for the Medicaid program and patient, especially those who must travel to another community or facility to see a physician.

- SB 2158 eliminates this barrier and puts Medicaid patients on par with patients from all other insurance programs in terms of their relationship with nurse practitioners.

- 35 physicians and health care organizations from throughout the state have signed petitions or letters in support of this change.

North Dakota Nurse Practitioner Association Board of Directors:

President: Cheryl Rising, Bismarck,
Vice President: Jane Sepiol, Washburn, jsepiol@primecare.org
Treasurer: Danielle Skaar, Hampden, daniskaar@hotmail.com
Secretary: Kristie Todd, Bismarck,
ND Representative on American Academy of Nurse Practitioners: Gwen Witzel, Langdon,

Additional background information on this subject is available at

#5

SB 2158

Senate Human Services Committee

Senator Judy Lee, Chair

January 20, 2009

Testimony

Madame Chair and Members of the Human Services Committee, my name is Sharon Ericson, Chief Executive Officer of the Valley Community Health Centers (VCHC) with sites in Northwood, Larimore, and Grand Forks. I have asked Karen Larson, Deputy Director of the Community HealthCare Association of the Dakotas to present my testimony this morning due to schedule and travel issues.

Valley Community Health Center supports SB 2158, allowing nurse practitioners to function as primary care providers for Medicaid. We support it in order to more fully streamline access to medical care for our rural and urban patients who are Medicaid recipients. Valley Community Health Centers currently has two family physicians and 2.5 FTE nurse practitioner medical providers. Forty-seven per cent of the Medicaid patients seen at VCHC in the past seven months were seen by a nurse practitioner. Generally, those patients have only seen that mid-level provider. Conversely, those patients have not been seen by either of our physician providers.

If any of those patients required a referral to a sub-specialty provider, under the current system, a physician who has never seen the patient is required to sign the referral. They are also required to be named as the primary care provider, even though the physician may never see that patient. There is little or no continuity of care served in this currently required approach. In addition a potential for increased costs occurs when the primary care provider physician would wish to generate an additional visit with the patient prior to signing the referral. I question the rationale for Medicaid to pay for what amounts to a

duplication of service, especially when the nurse practitioner has a history with the patient and is intimately familiar with that patient's medical history.

Much of the care provided in many rural North Dakota communities is provided by nurse practitioners. They are the primary care provider for their patients. I urge you to recommend a Do Pass for SB 2158 to support and assure access and continuity of care for many of our patients.

Thank you for allowing me to bring this testimony before you. If you have any questions, Karen will convey them to me for a quick response on my part.

#6

Thank you for the opportunity to speak on SB 2158 related to medical assistance services provided by advanced practice registered nurses. For the record, my name is Dr. Constance Kalanek, Executive Director of the NDBON. The Board has not taken an official position on this service. The Board will be meeting on Thursday and Friday of this week and will have discussion on this bill at that time.

The Board has been working on this issue with the advanced practice nurses for about a year and one half. The Board went on record to support a rule revision by the ND Department of Human Services that would facilitate this process based on the fact it was within the standard of practice for the APRN.

The Board supported the Opt-out for the nurse anesthetists several years ago based on the same facts. As above, based on the standard of practice for the anesthetists and the need to provide services to rural as well as urban areas of the state.

Thank you for the opportunity to speak. As I indicated earlier, the NDBON will be meeting on Thursday & Friday this week and will discuss this legislation. I am now open questions.

#7
Duane Houdek
Executive Secretary and Treasurer

Lynette McDonald
Deputy Executive Secretary

NORTH DAKOTA STATE BOARD OF MEDICAL EXAMINERS

Established 1890
Phone (701) 328-6500 • Fax (701) 328-6505
418 E Broadway Ave, Suite 12 • Bismarck, ND 58501-4086
www.ndbomex.com

BEFORE THE SENATE HUMAN SERVICES COMMITTEE

S.B.2158

TESTIMONY IN OPPOSITION TO S.B. 2158
NORTH DAKOTA STATE BOARD OF MEDICAL EXAMINERS
Duane Houdek, Executive Secretary

January 20, 2009

Madam Chair, members of the committee, my name is Duane Houdek, Executive Secretary of the North Dakota State Board of Medical Examiners. The Medical Board is charged by statute to regulate the practice of medicine in North Dakota.

The Medical Board had a representative, its Chairman, Dr. John Joyce, of Hettinger, sit in on the discussions the nurse practitioners had with the Department of Human Services regarding this issue. I also attended those meetings.

The nurse practitioners presented their case to our full board at its November, 2008, meeting.

The Board later considered the issue and concluded it would oppose the designation of nurse practitioners as primary care providers under medicaid.

Please permit me just a brief recital of the board's reasoning: The stated rationale for the nurse practitioners' request is based on very few, anecdotal incidents. From these, it is concluded that it would be less costly to the system, and more convenient to the patient, to allow NP's to refer directly to specialists. The argument was made for cost savings and patient convenience.

NORTH DAKOTA STATE
BOARD OF MEDICAL EXAMINERS

Duane Houdek
Executive Secretary and Treasurer

Lynette McDonald
Deputy Executive Secretary

Established 1890

Phone (701) 328-6500 • Fax (701) 328-6505
418 E Broadway Ave, Suite 12 • Bismarck, ND 58501-4086
www.ndbomex.com

Dr. Joyce, who has spent his professional life practicing in a rural North Dakota setting where primary care and referral to a sometime distant specialist is carefully considered every day, raised two points in this discussion which I don't believe were ever satisfactorily answered.

First, it may be, in fact, more expensive to the system, and less convenient to patients, to have mid-level providers refer directly to specialists if a primary care doctor could have dealt with the issue.

We all know that care provided by specialists is the most expensive care. There are many situations where a primary care physician may be able to deal with a problem that a mid-level cannot, saving both dollars for the payor and subsequent travel and appointments for the patients. There was no evidence presented that, overall, these do not outweigh the few instances presented in support of this change.

Second, the issue raised by the few, anecdotal cases could be addressed by better communication between physician and nurse-practitioner. During these discussions with the Department, it became apparent that there appears to be no requirement that a primary care provider has to have a second personal examination of the patient in order to refer to a specialist. There appears to be no reason why the few instances presented could not have been taken care of with an arrangement between providers that would allow a referral to be made on the basis of a telephone call. This type of cooperation in patient care should be encouraged, not discouraged.

The Board believes that excluding a primary care physician from this process is not in the best interest of patients and simply is not necessary in the circumstances described.

Physicians Dedicated to the Health of North Dakota

NORTH DAKOTA MEDICAL ASSOCIATION

1622 East Interstate Avenue
Post Office Box 1198
Bismarck, North Dakota
58502-1198

(701) 223-9475
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Testimony on Senate Bill No. 2158
Senate Human Services Committee
January 20, 2009

Same given to House.

Madam Chairman Lee and members of the Committee. I'm Bruce Levi and I serve as the Executive Director of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents and medical students.

The North Dakota Medical Association believes that the ND Department of Human Services is in the best position to determine whether nurse practitioners should be contracted with to serve as Medicaid primary care case managers in North Dakota. The Department is fully cognizant of the access and medical service needs of Medicaid beneficiaries in our state, the claims and utilization experience with current primary care case managers (who are presently physicians), especially in the areas of specialty care and durable medical equipment, and are fully aware of the potential for additional cost exposure to the Medicaid program. The Department has the capacity to fully analyze the implications and potential consequences – both pro and con – in a deliberate manner as intended by federal law, rather than in the form of a broad state legislative mandate that removes flexibility in the Department to change course in the future if necessary.

As you are aware, SB No. 2158 resulted from discussions with the ND Department of Human Services Medicaid Medical Advisory Council in response to the Department's request for that discussion after receiving a request from nursing organizations. The North Dakota Medical Association provided input, which is attached and which was provided to all Advisory Council members. With experience as primary care case managers for ND Medicaid, physician representatives of NDMA raised several points for discussion purposes, with the full expectation that the Department in management of the medical assistance program would make a decision based on what it determined to be in the best interests of Medicaid beneficiaries.

In the discussion of the Medicaid Medical Advisory Council on December 6, 2007, NDMA provided as requested the following comments and observations to the Department and Advisory Council:

Same handout given to House.

1. A Primary Care Provider (PCP) designation bestows broad authority to provide and approve medical service and durable medical equipment determinations, going far beyond the direct referral authority being sought by nurse practitioners (NPs).

2. There is a potential to create a two-tiered standard of care in the Medicaid system, where urban recipients have access to medical services from both primary care and specialist physicians in-system, while rural recipients would rely solely on the NP determination that a referral to a physician specialist is necessary. This differentiation has already been made under other government home health or hospice programs, where NPs may have an expanded role only in designated medically-underserved locations. NPs may not serve as PCPs in nursing home settings.

3. The current Medicaid PCP program, utilizing a primary care physician gatekeeper and 'medical home' system, is the preferred means to assure that resources are used appropriately and access to care is not diminished due to the provision of unnecessary services or referrals.

4. There is no good method to project either the costs or savings realized if NPs serve as PCPs in comparison to physicians, especially if the designation accords NPs broad unilateral decision-making powers.

5. If NPs are given Medicaid PCP designation, it may be necessary to develop a new Medicaid-only scope of practice for NPs to address the spectrum of their potential roles under differing circumstances (e.g., only in federally-designated underserved settings, on weekends, or only for certain specified medical conditions). Medicaid would need to develop a system to monitor the NPs' scope of practice or qualifications.

6. Results of the survey of NP practice settings indicate that a large majority of NPs currently do have access to a physician to make referral decisions. The impact on access to care for rural ND recipients would be very minor.

7. There is a potential for similar referral and decision problems to arise as the use of convenient 'minute clinics' staffed by solo NPs increases in ND, as recipients begin to use this venue to access primary health care services.

In conclusion we stated:

> "The proposal to designate NPs as PCPs does not address a well-defined problem, other than the occasional inconvenience for a small number of NPs and a vague notion of saving costs. From a physician perspective, there is a need to preserve the appropriate involvement of the primary care physician in the care of the beneficiary, and to guard against additional costs incurred for unnecessary

specialty care services. There has been no indication from the Department that there exists an access problem with physicians serving as primary care providers nor have there been offered documented instances of Medicaid patients complaining to physicians or ND Medicaid about inconvenience associated with the current approach. The full range of PCP duties has also not been reviewed, to determine appropriateness with respect to NP scope of practice."

The Medicaid Medical Advisory Council devoted almost the entire afternoon of the December 6, 2007, meeting discussing this issue, with divergent views expressed regarding the potential cost implications that might result from the proposal. The Department chose during that meeting to announce to the Advisory Council that it would not make a decision in this regard, and suggested to the nurse practitioners that they seek legislation. Again, it is our position that the Department is in the best position to determine whether nurse practitioners should be contracted with to serve as primary care case managers in North Dakota, as that authority is clearly recognized in federal law. Instead of delegating its authority to the legislature, we believe SB No. 2158 should be defeated and that the Department should undertake a process to determine what is in the best interests of Medicaid beneficiaries, and simply make a decision based on a proper analysis.

One area not discussed by the Advisory Council was the scope of the federal law allowing for states to recognize "primary care case managers" for purposes of the primary care case management system established by the federal Balanced Budget Act of 1997 (42 USC 1396d(t)(2)). At state option, a nurse practitioner can be recognized as a primary care case manager. For purposes of this particular federal law, a nurse practitioner is defined as "a certified pediatric nurse practitioner or certified family nurse practitioner which the certified pediatric nurse practitioner or certified family nurse practitioner is legally authorized to perform under State law ... whether or not the certified pediatric nurse practitioner or certified family nurse practitioner is under the supervision of, or associated with, a physician or other health care provider (42 USC 1396d(a)(21)."

The term "primary care" in federal law for purposes of the primary care case management contracts includes all the health care services customarily provided by or through a general practitioner, family medicine physician, internal medicine physician, obstetrician/gynecologist, or pediatrician (42 USC 1396d(t)(4)). The primary care case

management contracts must provide 24-hour availability of information, referral, and treatment with respect to medical emergencies and must provide for arrangements with, or referrals to, sufficient numbers of physicians and other appropriate professionals to ensure that services under the contract can be furnished to beneficiaries "promptly and without compromise to quality of care (42 USC 1396d(t)(3))."

The decision to contract or not contract with one nurse practitioner over another for primary care case management is a decision the Department of Human Services can already make. While federal law clearly recognizes only certain nurse practitioners as eligible to enter into primary care case manager contracts as well as a wide range of responsibility, SB 2158 appears overly broad in identifying all advanced registered nurse practitioners as "primary care providers" and not specifically recognizing the current requirement for prescriptive authority in NDCC sections 54-05-03.1-09 and 54-05-03.1-10. Those statutes require that a collaborative prescriptive agreement with a licensed physician be executed acknowledging the manner of review and approval of any planned prescriptive practices.

The primary reason put forth by proponents of SB 2158 points to alleged problems experienced by some nurse practitioners who require their patients to travel to see their primary care provider in order to substantiate the need for referrals for specialty care. While this problem is identified as the crux for the need to expand primary care case manager recognition to nurse practitioners, possible remedies for this problem were never discussed in the Advisory Council. In our review of the Department's administrative rules (NDAC 75-02-02) and the Department's primary care case management booklet, while referrals must come from the PCP, there is no requirement that there be an in-person visit by the PCP either in administrative rule or otherwise. The Department confirmed this interpretation. Perhaps a remedy could be worked out in discussion with the Department and our respective professional organizations and the Advisory Council, but the problem identified by the nurse practitioners has never been discussed fully other than in the context of the nurse practitioner's request for PCP status as the only solution.

It is evident that what is identified here today as the problem is the primary care case

management services themselves – while case management means locating, coordinating and monitoring health care services, case management and "managed care" also inevitably imply some level of inconvenience for both the practitioner and the patient. The PCP is put in place for a reason and that reason relates to ensuring that in making a referral for specialty services that appropriate medically necessary care is provided and nothing more or less. That does not mean that the resulting inconvenience to a very small number of Medicaid beneficiaries cannot be diminished in some manner. We have limited anecdotal information provided by nurse practitioners on the inconvenience but the solution proposed today in SB 2158 may or may not be a solution; it may even cause other problems for Medicaid. And that is why it is important that the Department analyze fully the implications of the proposal and take responsibility for making this decision.

It has never been the intent of NDMA to make this a "scope of practice" issue. We have repeatedly asked for discussion of the underlying referral issue identified by nurse practitioners. On a broader level, NDMA recognizes that patients' difficulties in securing access to qualified physicians in rural or underserved areas provide at first glance what seems to be a legitimate rationale on which to lobby for expanded scope of practice or here, expanded practice opportunities for nurse practitioners. However, NDMA has always looked first to what's best for patients and has always argued that solutions to actual or perceived shortages simply do not justify expansions in scope of practice or practice opportunities that expose patients to unnecessary or unintended health risks due to limitations in the education and training of non-physicians. Here we have argued as well that perceived shortages do not justify exposure by the Medicaid program to unnecessary cost as well as consideration of other factors best left to the Department.

Thank you for the opportunity to testify on behalf of the North Dakota Medical Association. We urge the Committee to recognize the appropriate role of the Department of Human Services to make this decision whether or not to recognize nurse practitioners as primary care case managers, and urge a "Do Not Pass" on SB No. 2158.

Medical Community Opposition to Nurse Practitioners as Designated Primary Care Providers for Medicaid

Background

In March 2007, the ND Department of Human Services Medical Services Director received a letter from the ND Nurses Association Government Relations Committee Chair, requesting that the Department explore the inclusion of nurse practitioners (NPs) as a category of health professionals the Department may designate as a Primary Care Provider (PCP) for ND Medicaid program recipients.

It is understood that the North Dakota Medicaid program may not designate nurses in the role of Primary Care Providers without amending the Medicaid State Plan, an action which would require approval from the Centers for Medicare and Medicaid Services. Federal legislation is now being considered which will allow states to make this determination. In ND, a similar PCP request was made by nurses several years ago, and the Division Director sought consensus from both physician and nurse organizations before making a decision. The North Dakota Medical Association did not support the expanded designation at that time, and no change was initiated by the Department.

In response to the 2007 request, DHS invited representatives of the ND Nurses Association, ND Nurse Practitioners Association, ND Medical Association, and the two professional licensing boards to meet on May 29 to discuss the PCP designation issue.

At the meeting, NPs indicated the intent of their request is to remove barriers to timely treatment for ND Medicaid recipients by allowing nurse practitioners, working within their scope of practice, to refer their patients directly to an in-state physician specialist for care, bypassing the current requirement for the patient to first be seen by their Primary Care Provider (physician) to confirm that the patient should be referred to a specialist. They argued that this would eliminate the patient having to make another appointment, perhaps having to travel some distance in the rural areas, with their primary care physician before being referred.

Although NPs are currently reimbursed for independent services provided to Medicaid beneficiaries, they are paid at 75% of the physician fee schedule. However, NPs argue that this is not a nurse reimbursement issue, but rather a patient access issue. Department representatives indicated it would not be a problem for DHS to issue billing numbers to individual NPs, eliminating the need for some services now being provided by NPs to be billed under a supervising physician's billing number.

The perspective of physicians was also noted at the meeting. *From a physician perspective, there is a need to preserve the appropriate involvement of the primary care physician and guard against additional costs incurred for unnecessary specialty care services.* This issue does not apply to patients seen by physician assistants, as all PA charts must be reviewed and signed by a physician.

The group requested that a second meeting be scheduled, with additional data gathered regarding the number of licensed NPs and PAs, their practice locations, and whether they practice alone at the setting or with another allied professional or physician.

The second meeting was convened on August 21, and NP representatives presented results of a survey sent to all 310 NPs licensed in ND, conducted by the UND College of Nursing. Of the 30 respondents, 44% indicated they practice with a physician on-site, 32% indicated a practice with immediate telephone contact with a physician, and 24% (7) are practicing without direct physician contact available. They also indicated that the ND Board of Nursing was supportive of this request, although they did not know if the Board had discussed the issue at its July meeting. As requested, the ND Board of Medical Examiners compiled and distributed a roster of about 240 physician assistants and their practice locations.

Medical Concerns

On July 27, the ND Board of Medical Examiners adopted a position in opposition to designating nurse practitioners as PCPs, and on August 7 the Board of Directors of the North Dakota Medical Association agreed to support the Board's position. Concerns expressed by the Board and Association include:

1. A Primary Care Provider (PCP) designation bestows broad authority to provide and approve medical service and durable equipment determinations, going far beyond the direct referral authority being sought by NPs.

2. There is a potential to create a two-tiered standard of care in the Medicaid system, where urban recipients have access to medical services from both primary care and specialist physicians in-system, while rural recipients would rely solely on the NP determination that a referral to a physician specialist is necessary. This differentiation has already been made under other government home health or hospice programs, where NPs may have an expanded role only in designated medically-underserved locations. NPs may not serve as PCPs in nursing home settings.

3. The current Medicaid PCP program, utilizing a primary care physician gatekeeper and 'medical home' system, is the preferred means to assure that resources are used appropriately and access to care is not diminished due to the provision of unnecessary services or referrals.

4. There is no good method to project either the costs or savings realized if NPs serve as PCPs in comparison to physicians, especially if the designation accords NPs broad unilateral decision-making powers.

5. If NPs are given Medicaid PCP designation, it may be necessary to develop a new Medicaid-only scope of practice for NPs to address the spectrum of their potential roles under differing circumstances (e.g., only in federally-designated underserved settings, on weekends, or only for certain specified medical conditions). Medicaid would need to develop a system to monitor the NPs' scope of practice or qualifications. If designation is granted to NPs, Medicaid should also anticipate requests from other allied professionals (e.g., PAs, RNs) seeking similar PCP designation status.

6. Results of the survey of NP practice settings indicate that a large majority of NPs currently do have access to a physician to make referral decisions. The impact on access to care for rural ND recipients would be very minor.

7. There is a potential for similar referral and decision problems to arise as the use of convenient 'minute clinics' staffed by solo NPs increases in ND, and recipients begin to use this venue to access primary health care services.

The proposal to designate NPs as PCPs does not address a well-defined problem, other than the occasional inconvenience for a small number of NPs and a vague notion of saving costs. From a physician perspective, there is a need to preserve the appropriate involvement of the primary care physician in the care of the beneficiary, and to guard against additional costs incurred for unnecessary specialty care services. There has been no indication from the Department that there exists an access problem with physicians serving as primary care providers nor have there been offered documented instances of Medicaid patients complaining to physicians or ND Medicaid about inconvenience associated with the current approach. The full range of PCP duties has also not been reviewed, to determine appropriateness with respect to NP scope of practice.

The medical community urges the Department to not implement a PCP designation for nurse practitioners.

Kimberly Krohn, MD
Chair, NDMA Board of Directors

Bruce Levi
NDMA Executive Director

#9

Testimony
Senate Bill 2158 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 20, 2009

Chairman Lee, members of the Senate Human Services Committee, I am Erik Elkins, Assistant Director of the Medical Services Division, for the Department of Human Services. I am here today to provide information regarding Senate Bill No. 2158.

This bill would require the North Dakota Medicaid program to exercise the state option and allow nurse practitioners to be primary care case managers for North Dakota Medicaid recipients. Should the bill pass, the Department would need to amend the Medicaid State Plan and secure approval from the Centers for Medicare and Medicaid Services (CMS). We do not expect any difficulty in securing this approval as the federal regulations (42 CFR 438.2) allow nurse practitioners to serve as primary care case managers:

> (42 CFR 438.2) Definitions: *Primary care case manager (PCCM)* means a physician, a physician group practice, an entity that employs or arranges with physicians to furnish primary care case management services or, at State option, any of the following:
> (1) A physician assistant.
> (2) A nurse practitioner.
> (3) A certified nurse-midwife.

In addition to securing the approval of CMS, the Department would need to modify the current Medicaid Management Information System (MMIS) to accommodate the selection of a nurse practitioner as a primary care case manager.

Therefore, in order to make the necessary system changes, inform and train county staff, inform Medicaid recipients, and secure the necessary CMS approval, the Department is requesting a delayed implementation of this bill. It is expected that the changes could be implemented no sooner than January 1, 2010. If the implementation were to be delayed until the new MMIS is implemented (scheduled for May 1, 2010), we would be able to implement the change at that time, with no changes to the current MMIS.

I would be happy to address any questions that you may have.

SB 2158 #10

NDLA, S HMS

From: Lee, Judy E.
Sent: Monday, January 19, 2009 6:53 PM
To: NDLA, S HMS
Subject: FW: Support for the Nurse Practitioner designation as "primary"

Copies, please.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
cell phone: 701-238-1531
e-mail: jlee@nd.gov

-----Original Message-----
From: DAN RUSTVANG [mailto:DRUSTVANG@altru.org]
Sent: Monday, January 19, 2009 3:10 PM
To: Lee, Judy E.
Subject: Support for the Nurse Practitioner designation as "primary"

Dear Senator Judy Lee

I appreciate your efforts in support of the ND Nurse Practitioners designation as Primary Provider. I am in total support of position of the ND NP Association.

Thank you. Dan Rustvang RN, FNP-C
Altru Main Clinic
Grand Forks ND 58201
Office 701-780-6941

NDLA, S HMS

From: Lee, Judy E.
Sent: Monday, January 19, 2009 7:04 PM
To: NDLA, S HMS
Subject: FW: SB 2158

Copies, please.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
cell phone: 701-238-1531
e-mail: jlee@nd.gov

From: Heidi A. Bender [mailto:Heidi.Bender@trinityhealth.org]
Sent: Monday, January 19, 2009 8:47 AM
To: Lee, Judy E.
Subject: SB 2158

January 19, 2009

Senate Human Services Committee
Senator Judy Lee, Chair
1822 Brentwood Court
West Fargo, North Dakota 58078-4204

Re: SB 2158

Dear Senator Lee:

My name is Heidi Bender. I am a family nurse practitioner in Minot, North Dakota. I have been practicing in the profession of nursing for 12 years and 2 years as a nurse practitioner. I am writing to you today to encourage your support for SB 2158, which recognizes nurse practitioners as primary care providers for Medicaid patients.

Personally, I work with a specialist in the department of Pulmonary and Critical Care Medicine. I first-hand know that many of our patients referred into our clinic are Medicaid patients and most are from very rural areas. These patients do not always have a physician available to them and therefore receive appropriate and quality care from their local nurse practitioner. If the nurse practitioners in those areas are not allowed to refer their patients to our clinic in a timely manner, then those patients may suffer unnecessary wait times which would only be detrimental to their health.

For example, imagine personally being diagnosed with a lung mass or tumor by your nurse practitioner but are unable to be referred to a specialist clinic because the provider is not a physician. Imagine the pain and stress that person must go through knowing that you have a mass or tumor; but have to wait probably another week or longer while you receive a referral from a physician to go see the Pulmonologist?

emember, first and foremost, the health and safety of patients' come first.

Thank you for your careful consideration of this measure. I urge you to support this bill and recommend a unanimous "do-pass" motion for the full Senate.

Sincerely,

Heidi Bender, RN, MS, FNP-C
Trinity Health
Pulmonology and Critical Care Medicine
20 Burdick Expressway West
Suite 203
Minot, ND 58703
Heidi.Bender@trinityhealth.org
701-857-5741

Lee, Judy E.

From: KAMI MACKI [KMACKI@altru.org]
Sent: Monday, January 19, 2009 4:29 PM
To: Lee, Judy E.
Subject: SB 2158

Ms. Lee,
I am a practicing NP in Gastroenterology at Altru Clinic in Grand Forks. I am in support of the SB 2158.

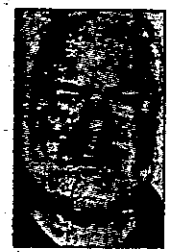
Within my practice, physicians as well as nurse practitioners, refer patients to me for management of gastrointestinal and liver disorders. If it is necessary for me to refer those patient on to other tertiary centers (i.e. for testing that we do not offer, transplants, etc), it would be beneficial for the referral to come from me. This allows for appropriate follow up and management of patients when they return.

Thank you for your time and consideration with this proposal.

Kamrin Macki, NP
Altru Clinic
Grand Forks, ND

Responses to iTunes upgrades

Last week's column on Apple's decision to charge existing customers to upgrade their iTunes purchases to files free of Digital Rights Management coding has prompted a number of responses.



KEITH DARNAY

Essentially, the comments fall in one of two categories:

1) Rerip the music: "What you need to do is go buy a stack of blank CDs and burn your albums to a CD and rip them back onto your computer. iTunes is just charging you for this service — if you don't like the fee, do it yourself."

2) What a ripoff: "I have a ton of purchased content from Apple, but only a small fraction of that I actually want or need to upgrade. By forcing me into all or nothing, they've pretty much ensured I choose nothing, as I'm not paying almost $300 for the smaller batch of stuff I still listen to."

Let me focus on the reripping suggestion.

Burning an iTunes AAC compressed song to CD essentially strips out the DRM coding from the file because the process simulates recording the song's audio as it plays. DRM is in the file's

Nurse who is also a doctor

By SARA KINCAID
Bismarck Tribune

Nurse Stacey Pfenning goes by the term doctor.

It can be a little confusing for patients, so she tries to clarify.

"I tell them I'm Dr. Pfenning, your nurse practitioner," she said.

Pfenning earned the title doctor last summer when she earned a doctorate in nursing practice. It is becoming more common for nurses to seek additional clinical experience with a doctorate degree.

"It really expanded the last five years," she said.

The doctorate she earned is meant to provide more clinical experience for nurses. It also lets her do research and publish. Like a nurse practitioner, she can see patients, give a diagnosis and write prescriptions. Nursing doctors can work under a physician or independently, she said.

"We are able to see patients individually," she said. "The nurse practitioner prior had to have a doctor sign off, but the nurse practitioner had the paperwork, diagnosis and plan of care done."

In the emergency room, Pfenning and other nurse practitioners provide care to patients in the fast track program. This is for people who come in for treatment with non-life-threatening conditions, she said.

Pfenning also will work with the University of Mary, where she teaches, to create a doctorate of nursing practice degree program. North Dakota State University and the University of Minnesota have doctoral nursing programs.

TOM STROMME/Tribu

Stacey Pfenning has earned a doctorate in nursing and is in practice at St. Alexius Medical Center i Bismarck in the emergency room.

"I tell them I'm Dr. Pfenning, your nurse practitioner."

Stacey Pfenning, who holds a doctorate in nusring

At Medcenter One, the director of research has a doctoral degree in nursing, but no employees have a clinical doctoral nursing degree. The nursing school there does not have plans to offer a doctorate program.

The changing role of nurses could be used to fill the gap healthcare coverage created fewer primary care physicians.

"The number of physicians h decreased 30 percent," Pfenni said. "The nurse practitioner h stepped up to practice in ru areas."

(Reach reporter Sara Kincaid 250-8251 or sara.kincaid@bismarcktribune.com.)

CALENDAR

#1

Testimony in Support of SB 2158
Cheryl Rising, RN, MS, CNRN, FNP
March 3, 2009
House Human Services Committee

Chairman Weisz and members of the committee. I am Cheryl Rising, FNP. I work at Medcenter One in Bismarck, ND and am president of the North Dakota Nurse Practitioner Association. I represent nurse practitioners and nurse practitioner students throughout North Dakota.

I am here to testify in support of senate bill 2158. Nurse Practitioners are playing an ever increasing role in health care delivery. As you can see by this map, nurse practitioners are working in all corners of the state, serving people in many, many rural areas as well as our large communities.

I am here to ask for your support on SB 2158. We are asking for nurse practitioners to be able to serve as primary care providers for Medicaid patients. Nurse practitioners were able to be primary care providers for Medicaid patients until 1997. In 1997 federal legislation, the balanced budget act gave authority for this program back to the states. North Dakota chose a managed care system and did not include nurse practitioners in the language to be primary care providers. We are the only state in the region that does not allow nurse practitioners to be primary care providers for Medicaid patients. (See US MAP).

Nurse practitioners are able to be primary care providers for all other insurances in North Dakota. We have been working for two years to get the language changed in the Medicaid rules. We have had meetings with the Medicaid department, presented to the human services committee, met with Lieutenant Governor, the Board of Medical Examiners and the Executive Director of Medical Association. The Medicaid department would not change the ruling due to the opposition from the Board of Medical Examiners. We have been directed to bring this bill here.

Nurse practitioners already care for Medicaid patients. The Board of Nursing has reviewed this request and sent a letter to the Governor stating this is within our scope of practice, this will not change or affect our collaborative agreement.

The Medicaid patient sees who ever the provider is in their community. Nurse practitioners assess, diagnose and treat. If the Medicaid patient needs a referral a nurse practitioner is unable to refer because a nurse practitioner can not be named primary care provider. Only the designated primary care provider can refer and in North Dakota that is an MD. The Medicaid patient must then see their primary care provider to get approval for referral or the primary care provider must sign the approval. This limits access to care and creates barriers for patients.

SB 2158 eliminates this barrier.

The nurse practitioner or MD that sees the Medicaid patient and assesses, diagnosis, and treats should be the one to determine referral, refer, do the necessary paper work and follow up.

We urge you to support this change. Thank you for this time to address this issue. I would be happy to answer any questions.

Cheryl Rising, RN, MS, CNRN, FNP
905 Dodge Circle
Bismarck, ND 58503

Home number 701-258-1169
Cell number 701-527-2583
Work cell number 701-471-7203

#5

CHAD
Community HealthCare
Association of the Dakotas

SB 2158

House Human Services Committee

Representative Robin Weisz, Chair

March 3, 2009

Testimony

Chairman Weisz and Members of the Human Services Committee, my name is Karen Larson, Deputy Director of the Community HealthCare Association of the Dakotas. I am here to testify at the request and on behalf of Sharon Ericson, Chief Executive Officer of the Valley Community Health Centers (VCHC) with sites in Northwood, Larimore, and Grand Forks, and Robin Silbernagel, Chief Executive Officer of Northland Community Health Center (NCHC) with sites in Turtle Lake, McClusky, and Rolette.

These Community Health Centers support SB 2158, allowing nurse practitioners to function as primary care providers for Medicaid. This legislation will more fully streamline access to medical care for our patients who are Medicaid recipients.

Valley Community Health Centers currently has two family physicians and 2.5 FTE nurse practitioner medical providers. Forty-seven per cent of the Medicaid patients seen at VCHC in the past seven months were seen by a nurse practitioner. Generally, those patients have only seen that mid-level provider. Conversely, those patients have not been seen by either of the physician providers.

Northland Community Health Center employs 3.3 FTE nurse practitioner medical providers with the single contracted physician rarely seeing their patients. The level of care patients receive from the nurse practitioners on staff is of high quality. The communities have welcomed them as an important means of having local access to care.

If any of those patients required a referral to a sub-specialty provider, under the current system, a physician who has never seen the patient is required to sign the referral. They are also required to be named as the primary care provider, even though the physician may never see that patient. There is little or no continuity of care served in this currently required approach. In addition a potential for increased costs occurs when the primary care provider physician would wish to generate an additional visit with the patient prior to signing the referral. We question the rationale for Medicaid to pay for what amounts to a duplication of service, especially when the nurse practitioner has a history with the patient and is intimately familiar with that patient's medical history.

Much of the care provided in many rural North Dakota communities is provided by nurse practitioners. They are the primary care provider for their patients. We urge you to recommend a Do Pass for SB 2158 to support and assure access and continuity of care for many of our patients.

Thank you for allowing me to bring this testimony before you. If you have any questions, I will convey them to Sharon and Robin for a quick response on their part.

NORTH DAKOTA STATE BOARD OF MEDICAL EXAMINERS

Established 1890

Phone (701) 328-6500 • Fax (701) 328-6505
418 E Broadway Ave, Suite 12 • Bismarck, ND 58501-4086
www.ndbomex.com

Duane Houdek
Executive Secretary and Treasurer

Lynette McDonald
Deputy Executive Secretary

#7

BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

S.B.2158

TESTIMONY IN OPPOSITION TO S.B. 2158
NORTH DAKOTA STATE BOARD OF MEDICAL EXAMINERS
Duane Houdek, Executive Secretary

January 20, 2009

Mr. Chairman, members of the committee, my name is Duane Houdek, Executive Secretary of the North Dakota State Board of Medical Examiners. The Medical Board is charged by statute to regulate the practice of medicine in North Dakota.

The Medical Board had a representative, its Chairman, Dr. John Joyce, of Hettinger, sit in on the discussions the nurse practitioners had with the Department of Human Services regarding this issue. I also attended those meetings.

The nurse practitioners presented their case to our full board at its November, 2008, meeting.

The Board later considered the issue and concluded it would oppose the designation of nurse practitioners as primary care providers under medicaid.

Please permit me just a brief recital of the board's reasoning: The stated rationale for the nurse practitioners' request is based on very few, anecdotal incidents. From these, it is concluded

that it would be less costly to the system, and more convenient to the patient, to allow NP's to refer directly to specialists. The argument was made for cost savings and patient convenience.

Dr. Joyce, who has spent his professional life practicing in a rural North Dakota setting where primary care and referral to a sometime distant specialist is carefully considered every day, raised two points in this discussion which I don't believe were ever satisfactorily answered.

First, it may be, in fact, more expensive to the system, and less convenient to patients, to have mid-level providers refer directly to specialists if a primary care doctor could have dealt with the issue.

We all know that care provided by specialists is the most expensive care. There are many situations where a primary care physician may be able to deal with a problem that a mid-level cannot, saving both dollars for the payor and subsequent travel and appointments for the patients. There was no evidence presented that, overall, these cases do not outweigh the few instances presented in support of this change.

Second, the issue raised by the few, anecdotal cases could be addressed by better communication between physician and nurse-practitioner. During these discussions with the Department, it became apparent that there is no requirement that a primary care provider has to have a second personal examination of the patient in order to refer to a specialist. There appears to be no reason why the few instances presented could not have been taken care of with an arrangement between providers that would allow a referral to be made on the basis of a telephone call. This type of cooperation in patient care should be encouraged, not discouraged.

The Board believes that excluding a primary care physician from this process is not in the best interest of patients and simply is not necessary in the circumstances described.

If the committee believes that this bill should be supported, then we ask that you amend it to include physician assistants, as well as nurse practitioners. If you believe that allowing mid-level providers to make this type of referral is better for North Dakota, then there is no reason to limit the change to one mid-level practitioner versus another. The federal statute that allows this sort of arrangement refers to both physician assistants and nurse practitioners as mid-levels who would be entitled to be primary care providers if the state permits it. The Board's attorney, Mr. John Olson, has prepared an amendment that would serve this purpose.

Thank you. I would be glad to try to answer any questions the committee may have.

#6

Testimony
Senate Bill 2158 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
March 3, 2009

Chairman Weisz, members of the House Human Services Committee, I am Erik Elkins, Assistant Director of the Medical Services Division, for the Department of Human Services. The Department is not in support of this bill; however, I am here today to provide information regarding Senate Bill No. 2158.

This bill would require the North Dakota Medicaid program to exercise the state option and allow nurse practitioners to be primary care case managers for North Dakota Medicaid recipients. Should the bill pass, the Department would need to amend the Medicaid State Plan and secure approval from the Centers for Medicare and Medicaid Services (CMS). We do not expect any difficulty in securing this approval as the federal regulations (42 CFR 438.2) allow nurse practitioners to serve as primary care case managers:

> (42 CFR 438.2) Definitions: *Primary care case manager (PCCM)* means a physician, a physician group practice, an entity that employs or arranges with physicians to furnish primary care case management services or, at State option, any of the following:
> (1) A physician assistant.
> (2) A nurse practitioner.
> (3) A certified nurse-midwife.

In addition to securing the approval of CMS, the Department would need to modify the current Medicaid Management Information System (MMIS) to accommodate the selection of a nurse practitioner as a primary care case manager.

Therefore, in order to make the necessary system changes, inform and train county staff, inform Medicaid recipients, and secure the necessary CMS approval, the Department is requesting a delayed implementation of this bill. It is expected that the changes could be implemented by January 1, 2010.

I would be happy to address any questions that you may have.

#8

Prepared by John M. Olson

Lobbyist #142

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2158

Page 1, line 3, after "practitioners" add "and physician assistants"

Page 1, line 8, after "practitioners" add "and physician assistants"

Page 1, line 9, after "practitioners" add "and physician assistants"

Page 1, line 11, after "practitioner" add "or physician assistant"

Page 1, line 12, after "practitioner's" add "or physician assistant's"

Renumber Accordingly

Prepared by the Legislative Council staff for
Senator J. Lee
April 13, 2009

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2158

That the House recede from its amendments as printed on page 709 of the Senate Journal and pages 820 and 821 of the House Journal and that Engrossed Senate Bill No. 2158 be amended as follows:

Page 1, line 1, replace "a" with "two" and replace "section" with "sections"

Page 1, line 3, after "practitioners" insert "and physician assistants; to provide for legislative intent; and to provide an effective date"

Page 1, after line 12, insert:

"**SECTION 2.** A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Medical assistance - Services provided by physician assistant. The medical assistance program must recognize physician assistants as primary care providers with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the physician assistant as a primary care provider under the medical assistance program must be within the scope of the physician assistant's license.

SECTION 3. DEPARTMENT TO SUBMIT AMENDED PLAN. Within thirty days of the effective date of section 1 of this Act, the department of human services shall submit for approval an amended state plan to implement section 1 of this Act.

SECTION 4. EFFECTIVE DATE. Section 2 of this Act becomes effective on the date the department of human services certifies to the legislative council that the department of human services has implemented the medicaid management information system."

Renumber accordingly

#1

Lee, Judy E.

From: Duane [dhoudek.ndbme@midconetwork.com]
Sent: Friday, April 17, 2009 8:53 AM
To: Lee, Judy E.
Subject: RE: P.A.s in 2158

Follow Up Flag: Follow up
Flag Status: Flagged

Sen. Lee:
Here are the responses to your questions:
1) What is the distribution of PA's throughout ND?
Of the approximately 240 PA's in the state, over 40%, or about 100, practice in towns other than Fargo, Bismarck, Grand Forks and Minot. They are spread throughout the state, with most towns having one or two PA's.

2) What is the situation for the PA's practicing independently, since many are not masters degree professionals? Are the docs comfortable with them practicing independently? We are aware that quite a few of them have a narrow area of practice, working with one or a few physicians?
PA's do not practice independently; rather, they always practice with full corroboration of a supervising physician. I can speak for our board directly--and I believe for the physician community generally--that physicians have complete confidence in PA's. A point that must be understood is that all PA's are trained in all general aspects of medicine. When they practice in a more specialized area, it is because that is the area of their primary supervising physician. In that relationship they will not practice in any other area, so there will never be a question of whether they will be doing things "out of their area". That is a great strength of the PA/physician relationship. It does not mean that a physician is physically present with them, and so the bill would still assist those practicing in a rural area.

3) What is the timetable that would be required to get done what needs to be done for them to be named primary care providers? ... PA's are not in the same category with Medicaid.
As far as the Board is concerned, they could begin immediately. There would be no rule change required. That is because it would be within the scope of practice that may be delegated by a supervising physician. When I read the federal rules the medicaid people brought to your hearing on this bill, PA's were listed in the same section as NP's as possible primary care providers.

Thank you for the opportunity to bring this information to the attention of the conference committee. If there are any other questions, please let me know.
Duane H.

Duane Houdek
Executive Secretary
ND State Board of Medical Examiners
418 East Broadway, Suite 12
Bismarck, ND 58501
Tel: (701)328-6500

From: Lee, Judy E. [mailto:jlee@nd.gov]
Sent: Thursday, April 16, 2009 8:09 AM
To: Duane
Subject: RE: P.A.s in 2158

The next conference committee meeting is at 10:30 a.m. on Friday, 4/17 in the Red river room. I do need the information before then.

Senator Judy Lee

#2

NDLA, S HMS

From: Lee, Judy E.
Sent: Wednesday, April 15, 2009 3:08 PM
To: NDLA, S HMS
Subject: FW: nurse practitioners

Mary –
Would you please make copies of this for the conference committee members?

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

From: Biron Baker [mailto:bironbaker@hotmail.com]
Sent: Wednesday, April 15, 2009 12:15 PM
To: Lee, Judy E.
Subject: nurse practitioners

Dear Ms. Lee:

It's come to my attention that SB 2158 will go through, but that an ammendment was added to include physician assistants. This was not something I had advocated for, and I would not be comfortable with it. The positive experiences I've had with nurse practitioners does not extend to physician assistants. PA's often have diverse enough backgrounds that the level of experience and training varies widely, and as a result the competence level varies widely as well. This is not a problem I've seen with nurse practitioners. I do not support the addition of PA's to SB 2158.

Sincerely,

Biron Baker, M.D.
