

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1081

2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1081
January 13, 2011
12885

☐ Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Criminal history record checks for chiropractors

Minutes:

Chairman Bette Grande opened the hearing on HB 1081. All were present.

Dr. Carol Winkler, President of the North Dakota State Board of Chiropractic Examiners, appeared in support of this bill. **Attachment 1.**

Rep. Bill Amerman: Are these reports confidential?

Dr. Winkler: Yes they are.

Rep. Bill Amerman: On the fees, do you know what that might average for these licensees?

Dr. Winkler: I think it depends on exactly how it operates, but my understanding is that it is somewhere between \$60 and \$100.

Chairman Bette Grande: I asked that question of another group earlier in the week, and those numbers come up very similar. It all depends on if you are just doing the fingerprinting, BCI portion, or if you have to do a national criminal background check. From what I understood from another group that is going to have this type of thing is that they are looking at that first and foremost BCI type thing, but if they are getting any flags or anything to that, they will proceed into that next level. It is averaged at about \$86.

Rep. Ron Guggisberg: I notice that it says the board may require an applicant. Who and how will it be decided whether the applicant has to have this background check?

Dr. Winkler: We intend on doing that on all new applicants. We are not planning on doing it on relicensure at this time unless we have reason to believe that someone is under investigation that we need to look at in that way. With people moving from other states, this is a criminal background check. There are professional data banks. If someone has something against their license, that information we already get.

Rep. Glen Froseth: Is your profession keeping up with the demand of chiropractors to meet the needs?

Dr. Winkler: Especially in North Dakota, it is. Somewhere in some of the states like California, they have 16,000-17,000 licensed chiropractors, and it is hard for the Board of Examiners to keep track of all that. In North Dakota, I wouldn't say there are an equal number of retirees compared to new licensures, but I also haven't seen that the numbers of the new licensees are having trouble getting started or that sort of thing. In North Dakota the thing that we have is the major cities and the outlying communities and some of the new licensees wanting to go out into the rural areas and live. That is more of an issue.

Vice Chairman Randy Boehning: With the criminal background checks, what are we looking for? What will disqualify them from becoming a licensed chiropractor in the state?

Dr. Winkler: What we are looking at is something that would be a flag to unprofessional conduct so that could be sexual misconduct, a prior conviction of some sort that would prevent them from practicing in a professional manner as far as our law goes.

Vice Chairman Randy Boehning: Is it a set standard? Do you have something in rules? Is it on a case by case basis? Do you have something actually in writing?

Dr. Winkler: We do have in writing in our rules what unprofessional conduct constitutes, but our Board basically works on a case by case basis. What we would want to do is be aware of the situation if it exists, evaluate the person or have the person evaluated based on what the red flag is, and then make a decision based on that. It is not a situation where once you have a problem, you are not going to get a license, but if it is a situation where they have not recovered, not done what they should do in terms of being able to practice professionally, then we would want to make that judgment.

Rep. Bill Amerman: Could you give me the makeup of your board? Is it all chiropractors?

Dr. Winkler: Yes. We have five chiropractors on our board.

Rep. Karen Rohr: Does your board then input this information into a database so that you keep track of the background checks that are done and or if there are any further infractions that occur?

Dr. Winkler: Yes, we do in of ourselves. Then, there are other databases that are available for healthcare professionals nationwide.

Rep. Karen Rohr: This is not transparent information that the public can go in and see?

Dr. Winkler: Correct. I don't want to sound like we are not transparent. What I am saying is we are not going to publish that information, but once it is ruled upon, we will follow the law as it goes to that.

Chairman Bette Grande: Just like any other physician that is brought up on any issues, there's transparency to a point, but I think what she is referring to it wouldn't be HIPPA but it is similar to a HIPPA type thing where some of these things where you are going to keep them here. If you have a physician that has the infractions that they don't bring about licensure for them, then that is going to become public out really on its own.

Dr. Winkler: After the decision is made, it is public record, correct.

Rep. Karen Rohr: My only concern would be is if you had a positive criminal background check, and I know it has happened in other professions, it is very likely or possible that individual could go to another state and practice before that would catch up to them and they realize that his license was revoked in say like North Dakota.

Dr. Winkler: Correct. That is a problem. There is a network in the federation of chiropractic licensing boards, and that is where that database is found. We are mandatory reporters to that. Once an infraction is upon a license, that automatically gets reported into that database. If we have a licensed chiropractor from some other state wanting to come to our state and even a new licensee out of school, we checked that databank before we issue a license. Before technology that happened quite a bit. There are the slippery, smart professional people that do tend to try to get around that. We haven't had that in our state. Some of the national meetings within the last year they have had a name change and haven't caught it. That sort of thing has happened, but we are on it as much as we can be.

Rep. Karen Rohr: That would be my concern—the patient. If they would have access, they could check it out themselves. If they hear rumors, and they can be deadly for any professional, and that is why they would be protected for both.

Dr. Winkler: Exactly right. That is the job of the board. We have third party people, patients and physicians, calling our board office asking questions like that even at this point. What we are able to give them, we do. If there is a current investigation in progress, we can't.

Rep. Lonny Winrich: If someone called and there was an investigation in progress, could you inform them that there was an investigation?

Dr. Winkler: We can. That is it. You can't divulge the details of the investigation until a ruling has been made.

Ken Tupa, ND Chiropractic Association, appeared in support. This is positive policy. It is good for the protection of the consumer and the public of North Dakota.

There was no one neutral or in opposition to this bill.

The hearing was closed.

Vice Chairman Randy Boehning made a motion for a Do Pass on HB 1081.

Rep. Ron Guggisberg seconded the motion.

House Government and Veterans Affairs Committee

HB 1081

January 13, 2011

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DO PASS, 13 YEAS, 0 NAYS. REP. ROHR IS THE CARRIER.

Date: 1-13-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1081

House GOVERNMENT AND VETERAN AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Boehning Seconded By Rep Guggisberg

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|-----------------|-----|----|
| Chairman Bette Grande | X | | Bill Amerman | X | |
| Vice Chairman Randy Boehning | X | | Ron Guggisberg | X | |
| Glen Froseth | X | | Lonny Winrich | X | |
| Karen Karls | X | | | | |
| Lisa Meier | X | | | | |
| Gary Paur | X | | | | |
| Karen Rohr | X | | | | |
| Mark Sanford | X | | | | |
| Vicky Steiner | X | | | | |
| Roscoe Streyle | X | | | | |
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Total (Yes) 13 No 0

Absent _____

Floor Assignment Rep Rohr

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

REPORT OF STANDING COMMITTEE

HB 1081: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1081 was placed on the Eleventh order on the calendar.

2011 SENATE JUDICIARY

HB 1081

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1081
3/2/11
Job #14841

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to criminal history record checks for chiropractors.

Minutes:

There is attached written testimony

Senator Nething – Chairman

Dr. Carol Winkler – President of the ND State Board of Chiropractic Examiners – See written testimony.

Senator Sitte – Asks if there is any particular case or reason to implement this bill.

Winkler – Replies they have not had anything come up but it is becoming on the national scene a standard and they want to come up to that mark.

Ken Tupa – ND Chiropractic Association – In support of this bill, urges a do pass on the bill.

Opposition – 0

Neutral – 0

Close the hearing on HB1081

Senator Olafson moves a do pass

Senator Sitte seconds

Roll call vote – 6 yes, 0 no

Motion passes.

Senator Sitte will carry

Date: 3/2
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1081

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Olafson Seconded By Senator Sitte

| Senators | Yes | No | Senators | Yes | No |
|------------------------------|-----|----|----------------|-----|----|
| Dave Nething - Chairman | X | | Carolyn Nelson | X | |
| Curtis Olafson - V. Chairman | X | | | | |
| Stanley Lyson | X | | | | |
| Margaret Sitte | X | | | | |
| Ronald Sorvaag | X | | | | |
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Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Sitte

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

REPORT OF STANDING COMMITTEE

HB 1081: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1081 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

HB 1081

Good Morning Madam Chairman and Members of the Government and Veteran's Affairs Committee:

My name is Dr. Carol Winkler and I am president of the North Dakota State Board of Chiropractic Examiners. I am also a practicing chiropractor and practice in Bismarck.

It is my pleasure to represent the North Dakota State Board of Chiropractic Examiners this morning on our House Bill 1081. This bill in essence gives our Board the ability to do criminal background checks as a part of its function to protect patients and the public in North Dakota. The language is taken from existing statutory language that permits other state licensing boards to require criminal background checks.

From a patient protection point of view, it is the standard to obtain current criminal background information regarding potential licensees, or practicing doctors of chiropractic who may have a history that brings into question whether they may practice safely with the public. We have had an increased interest in chiropractors who practice in other states moving to North Dakota due to the strong economy North Dakota maintains. The Board may have occasion to investigate a current licensee or investigate the background of a current licensee in another state who is applying for licensure in North Dakota. The information obtained from this investigative service would be a tool to utilize in evaluating these individual candidates for licensure.

The North Dakota State Board of Chiropractic Examiners intends to initially request background checks for new licensees. North Dakota currently has three hundred and twenty six actively licensed chiropractors, and forty one inactive chiropractors. New licensees matriculate as they finish their appropriate course work, and board work, basically matriculating throughout the year. Therefore, we will not be asking for a large number of background checks at one time. The fee for these services will be the applicant's responsibility, as evidenced in the bill at line sixteen and seventeen. The average number of new licenses over the last three year period is twenty-two.

In conclusion, we as a Board, feel this is a timely and appropriate avenue to utilize in protecting the citizens of North Dakota.

I would be happy to entertain any questions you may have and respectfully encourage a do pass vote on this bill.

Dr Carol J. Winkler, President
North Dakota State Board of Chiropractic Examiners

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Mr.
Good Morning Madam Chairman and Members of the Senate Judiciary Committee:

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North Dakota State Board of Chiropractic Examiners