

**2017 HOUSE HUMAN SERVICES**

**HB 1289**

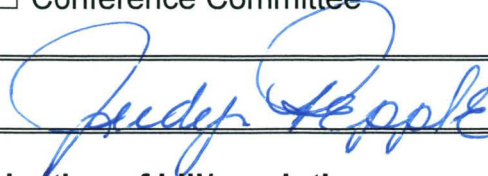
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

HB 1289  
1/25/2017  
27354

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to grounds for disciplinary action by the medical board.

## Minutes:

1,

Chairman Weisz: called the committee to order.  
Attendance taken

Opened the hearing on HB 1289

Duane Houdek, Exe. Secretary of the Board of Medicine  
(Attachment 1)

Chairman Devlin: Are there any questions from the committee?  
Further support for HB 1289

Courtney Koebele, Exe. Director of ND Medical Association  
I am here to say the we are in support of HB 1289 also. We feel this is a step in the right direction.

Chairman Devlin: Is there further testimony in support of HB 1289? Seeing none.  
Is there any testimony in opposition to HB 1289? Seeing none.

Chairman Devlin: Are there any questions from the committee? Seeing none, we will close the hearing on HB 1289

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Fort Union Room, State Capitol

HB 1289  
1/25/2017  
No tape

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to grounds for disciplinary action by the medical board.

## Minutes:

(No tape. Computer locked up.)

Chairman Weisz: Called the committee to order.

Committee we have an amendment before us. What are the committee's wishes?

Representative Devlin: I move a do pass on the amendment on HB 1289

Representative Seibel: I second it.

Chairman Weisz: Ok committee, we have a do pass on the amendment before us. Is there any discussion? Seeing none, we will take a voice vote on the amendment to HB 1289.

Voice vote taken to accept the amendment on HB 1289.  
Motion carried.

Representative Schneider: I move a do pass as amended on HB 1289.

Representative D. Anderson: I second that.

Chairman Weisz: We will do a roll call vote for a do pass as amended on HB 1289.

Roll call taken. Yes 11 no 0 absent 3  
Motion carried. Do I have a volunteer to carry it?

Representative Kiefert: I will.

Chairman Weisz: Thank you Representative Kiefert.  
Committee closed.

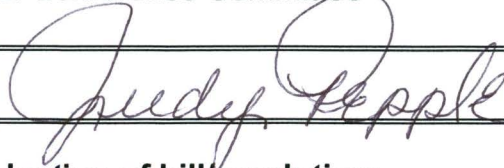
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

1289  
2/8/2017  
28041

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to grounds for disciplinary action by the medical board.

## Minutes:

Chairman Weisz: I will entertain a motion to reconsider our actions.

Representative Schneider: I move that we reconsider our actions on HB 1289

Seconded by Representative Seibel

Voice vote taken to reconsider our actions on HB 1289

Motion carried to reconsider our actions.

Chairman Weisz: We adopted amendments and there weren't any, what was referred to as an amendment was actually part of the bill that was brought forward.

Representative Seibel: I move for a do pass on HB 1289.

Representative Devlin: second

Representative Kiefert: they always had the power, but we are putting it in code?

Chairman Weisz: They needed to give it more teeth, I think.

Is there any discussion? Seeing none, the clerk will call the roll for a do pass on HB 1289.

Roll call vote taken    Yes    13        No    0    Absent    1

Chairman Weisz: Motion carried for a do pass on HB 1289. Volunteer to carry it?

Representative Kiefert will carry it.

Chairman Weisz: Thank you. Adjourned.

Date: 1-25-17  
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
 BILL/RESOLUTION NO. HB 1289

House Human Services Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:     Reconsider     \_\_\_\_\_

Motion Made By Rep. Devlin    Seconded By Rep. Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

*Vote to adopt amendment motion carried*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 1-25-17  
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1289

House Human Services Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Schneider Seconded By Rep. B. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	<u>absent</u>	
Vice Chairman Rohr	<u>absent</u>		Rep. Schneider	✓	
Rep. B. Anderson	✓				
Rep. D. Anderson	✓				
Rep. Damschen	<u>absent</u>				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	✓				
Rep. Seibel	✓				
Rep. Skroch	✓				
Rep. Westlind	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep. Kiefert

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

Date: 2/8/17  
 Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1289

House Human Services Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Schneider Seconded By Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

*Vote Carried to Reconsider*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 2/8/17  
 Roll Call/Vote#: 2

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1289**

House Human Services Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Seibel    Seconded By Rep. Devlin

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	ab.	
Vice Chairman Rohr	✓		Rep. Schneider	✓	
Rep. B. Anderson	✓				
Rep. D. Anderson	✓				
Rep. Damschen	✓				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	✓				
Rep. Seibel	✓				
Rep. Skroch	✓				
Rep. Westlind	✓				

Total (Yes) 13    No 0

Absent 1

Floor Assignment Rep. Kiefert

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



**REPORT OF STANDING COMMITTEE**

**HB 1289: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1289 was placed on the  
Eleventh order on the calendar.

**2017 SENATE HUMAN SERVICES**

**HB 1289**

# 2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee  
Red River Room, State Capitol

HB 1289  
3/14/2017  
Job Number 29154

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A bill relating to grounds for disciplinary action by the medical board.

## Minutes:

1 Attachment

**Chair J. Lee:** Brought the hearing to order, all members were present.

**Duane Houdek (0:30-2:30) testified in favor, please see attachment #1.**

**Senator Anderson:** This program is required report to you if someone is noncompliant with their stipulations?

**Mr. Houdek:** There are three levels of relapses, some they can handle on their own, anything that involves patient care or happens on site, they're required to report to us.

**Senator Anderson:** Your Board also might as part of a stipulation with a licensee require that they participate with this program, correct?

**Mr. Houdek:** yes, we can order this as part of a disciplinary order, then we know who it is and we're talking about people coming in on their own. Since its moved out from us we've had 8 self-referrals we're getting at it earlier.

**Senator Anderson:** The pharmacy group's committee resides with the association. They don't even tell us how many referrals they have.

**Mr. Houdek:** Public safety demands that we do know. In California people were going in, no matter what they did there was no reporting; we have to balance trying to treat people who need it, with the discipline that has to follow if they just decide to blow it off and won't do it and present that threat to the public.

**Senator Piepkorn:** If they follow the program, fine, they don't get mentioned. If they don't they report to the Board.

**Mr. Houdek:** That's correct.

**V-Chair Larsen:** How many licensed physicians are there in the state?

**Mr. Houdek:** We license approximately 3,800 physicians, 1,800 reside in ND, the others are out of state. We license a lot of people who do telemedicine, we license doctors in Mayo and regional institutions that need to practice here as well.

**V-Chair Larsen:** Would telehealth be considered a face to face appointment?

**Mr. Houdek:** The board has worked hard on a telemedicine rule that addresses that issue. Once a patient physician relationship has been established, you can communicate however you want. For the initial meeting, if the video in telemedicine encounter is the equivalent of an inpatient interview; if you use any peripherals to diagnose and treat, then you've got to use those in telehealth too. There's one exception, that's the prescription of opioids, that is not allowed.

**V-Chair Larsen:** With cancer, a lot of folks go to Mayo or Arizona; they get diagnosed in Minot, then do a telemedicine call to these other areas that would count as a face to face?

**Mr. Houdek:** Yes, it probably would, from what you're describing it probably would.

**V-Chair Larsen:** We have the new medical marijuana bill, that was one of my concerns, you're going to have a face to face with the video, it sounds like with cancer I can go get medical marijuana without much resistance.

**Mr. Houdek:** I think I do agree, the physician's role in North Dakota under the medical marijuana law is different than other states where they're actually prescribing. The ND physicians haven't been asked to do that, they've been asked to certify that there is a condition that might benefit from medical marijuana. I get your point we didn't carve out medical marijuana.

**Senator Piepkorn:** In 3<sup>rd</sup> paragraph, prior to 2015 the Physician's Health Program was run by the Board, the legislature created this other program in 2013 and it kicked in in 2015?

**Mr. Houdek:** That's correct.

**Senator Piepkorn:** What's the new program called?

**Mr. Houdek:** The North Dakota Professional Health Program.

**No neutral or opposition testimony.**

**V-Chair Larsen:** Recessed the hearing.

**Chair J. Lee:** Reconvened the hearing.

**Senator Piepkorn:** I move do pass.

**V-Chair Larsen:** Second.

**A roll call vote was taken.**

Senate Human Services Committee

HB 1289

3/14/17

Page 3

**Motion passes 7-0-0.**

**Senator Piepkorn will carry.**

**Chair J. Lee:** Closed the hearing.

Date: 3/14 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1289

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Piepkorn Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Piepkorn

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

**REPORT OF STANDING COMMITTEE**

**HB 1289: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS**  
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1289 was placed on the  
Fourteenth order on the calendar.

**2017 TESTIMONY**

**HB 1289**



Att. 1  
HB 1289  
1-25-17

HOUSE HUMAN SERVICES COMMITTEE

HB 1289

January 25, 2017

Testimony of Duane Houdek

North Dakota Board of Medicine

Chairman Weisz and members of the House Human Services Committee, my name is Duane Houdek, executive secretary of the board of medicine.

We requested this bill to make it clear that if a physician violates, or does not comply with the physician's health program this legislature created, it is a potential basis for discipline by the medical board. It is not creating any new basis for discipline; this is a necessary power we've always had, it just had to be specifically spelled out so it is clear it still exists.

Prior to 2015, the physician's health program was run, internally, by the Board of Medicine. It is a confidential program that is not disciplinary, and it is used to monitor treatment of physician's substance abuse or mental health issues that, left untreated, might impair the physician's ability to practice safely.

An important public protection component of this program is that if the physician does not comply with the program, it becomes a matter of potential discipline for the board. We have always had a provision that made it a disciplinary matter if a physician violates the program. It is found in subsection "j": "violation of any action, stipulation, condition, or agreement imposed by the board or the board's investigative panels."

In 2013, this legislature created a new program to perform this function that is separate from the board. This also was at the request of the board. The reason for its creation was to make it easier for physicians to join, without fear that if we at the board know they are getting treatment we might discipline their license in some manner. The hope was we would get at substance abuse problems earlier in the disease process and have a better chance of recovery. It is working very well.

The program started operating in March of 2015 and has been very successful. Now that the program is run independently of the board, it is their agreement, not ours, that may be violated. It is not clear that if they report noncompliance to us, our old disciplinary section applies. The intention clearly was to continue that possibility, as it is an integral part of the program. Physicians should not be able to remain protected in a confidential treatment program if they are not compliant with it.

This amendment, which appears as "dd", just states clearly that we continue to have a basis to discipline in those cases of noncompliance, now that they are reported by the separate physicians' health Program.

Thank you. I will try to answer any questions you may have.

SENATE HUMAN SERVICES COMMITTEE

HB 1289

March 14, 2017

Testimony of Duane Houdek

North Dakota Board of Medicine

Chair Lee and members of the Senate Human Services Committee, my name is Duane Houdek, executive secretary of the board of medicine.

We requested this bill to make it clear that if a physician violates, or does not comply with the physician's health program this legislature created, it is a potential basis for discipline by the medical board. It is not creating any new basis for discipline; this is a necessary power we've always had, it just had to be specifically spelled out so it is clear it still exists.

Prior to 2015, the physician's health program was run, internally, by the Board of Medicine. It is a confidential program that is not disciplinary, and it is used to monitor treatment of physician's substance abuse or mental health issues that, left untreated, might impair the physician's ability to practice safely.

An important public protection component of this program is that if the physician does not comply with the program, it becomes a matter of potential discipline for the board. We have always had a provision that made it a disciplinary matter if a physician violates the program. It is found in subsection "j": "violation of any action, stipulation, condition, or agreement imposed by the board or the board's investigative panels."

In 2013, this legislature created a new program to perform this function that is separate from the board. This also was at the request of the board. The reason for its creation was to make it easier for physicians to join, without fear that if we at the board know they are getting treatment we might discipline their license in some manner. The hope was we would get at substance abuse problems earlier in the disease process and have a better chance of recovery. It is working very well.

1289  
#1  
3/4  
pg 2

The program started operating in March of 2015 and has been very successful. Now that the program is run independently of the board, it is their agreement, not ours, that may be violated. It is not clear that if they report noncompliance to us, our old disciplinary section applies. The intention clearly was to continue that possibility, as it is an integral part of the program. Physicians should not be able to remain protected in a confidential treatment program if they are not compliant with it.

This amendment, which appears as "dd", just states clearly that we continue to have a basis to discipline in those cases of noncompliance, now that they are reported by the separate physicians' health Program.

Thank you. I will try to answer any questions you may have.