

2017 SENATE HUMAN SERVICES

SB 2040

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2040
1/4/2017
Job Number 26513

- Subcommittee
 Conference Committee

Mame Durr

Explanation or reason for introduction of bill/resolution:

A bill relating to the scope of practice of addiction counselors.

Minutes:

3 Attachments

Michael Johnson, Legislative council staff person to the interim Human Services Committee, introduced Senate Bill 2040, which redefines Addiction counseling and adds exemptions.

Senator Lee: From now on the Diagnostic Statistical Manual(DSM)

Pam Sagness, Director for the Division of Behavioral Health Department of Human Services was introduced by the Chair.

Testimony from Rep. Kathy Hogan, who was unable to attend (3:05-4:00), her testimony was read by Sen. Lee. Please see attachment #1. Attachment #2 also provided by Rep. Hogan, for committee's reference.

Senator Lee: I had an inquiry from someone who represents the vaping industry was concerned that this was going to be an intrusion, and Ms. Sagness helped us clarify for them that it is not. Our challenge is the people who are licensed addiction counselors, the way the statute currently reads are not necessarily able to help someone who also may wish to quit smoking or may have other addictive behaviors. This would allow them to address all the challenges that one individual may have. Rather than if I'm coming to a licensed addiction counselor for a substance abuse but I also smoke and I want to quit that there's no question that counselors can help with that. That's the general reason for this. This will enable addiction counselors to broaden their scope if they're working with an individual who has more than one destructive behavior.

Barbara Andrist provided testimony for SB 2040 and SB 2088, she will read her testimony during SB 2088 hearing, please see attachment #3.

Senator Anderson: Chairman, I think that 2040 is basically embodied in 2088, which comes from the addiction counselors and the expansion of the language, and so I would suggest that we hold 2040 until we've heard 2088 and then if there's something in 2040 we'd like to see in 2088 we could meld into there anything that we'd need and then we can solve the problems together.

Senator Lee: I agree, then we don't have to have two to carry forward. I don't disagree with that concept at all. If there is no further discuss on 2040, we can't move the hearing ahead, because its scheduled for 11 and it was scheduled by the Legislative Council.

Senator Piepkorn: Is this just a really broad definition? When we get to individuals regarding gambling, use of tobacco, nicotine, alcohol or other harmful substance. Now is that just an all-encompassing term for the variety of drugs? Marijuana, meth, opiate, everything? Ok.

Pam Sagness, Dept. Human Service: Just to kind of answer, the harmful substances, when you're treating addiction there's often substances that aren't listed, so it's not just the typical things like cocaine or marijuana, but think about synthetics, or over the counter medication. Sometimes there's legal medications that part of what addiction treatment would be so just using that term would be important in that way. There's also a conflict between the practice the scope of work for addiction counselors and the North Dakota administrative code for treatment provided relating to nicotine use, so for example addiction providers are require to assess whether an individual has a nicotine dependence but also to assess if they are assessed as having an issue that that would be address in their treatment plan, however that wouldn't be allowed by their scope of work. And so that was one of the things creating a need for this change and I just wanted to note that, because it really is a conflict in the practice in day to day and we license as a department the substance abuse treatment providers and that's a conflict between our administrative code and the current scope of work and Century Code.

Senator Larsen: Line 7 has abuse struck out, is that struck out in the DSM as well?

Pam Sagness: SO the terminology changed in the most recent manual and so now its substance use disorder instead of substance abuse and substance dependence, so it's just staying current with the terminology. I think it's important when we look at addressing the language here that DSM does update, and so if you look at the draft from 2040 to 2088 we just might want to consider that we're using the language that would best suit those changes.

Senator Lee: We discussed at one time we can't say the most recent, because that's changing things we can't change in the future. So you could maybe help us figure out which type of language would be the best to use to do what we want to do, because we all want to do the same thing.

Pam Sagness: We certainly can do that, it's something that we have to address in our administrative code to so we can look to be uniform in that and send some language over.

Senator Larsen: Line 8 is nicotine added into the DSM?

Pam Sagness: yes. Nicotine is part of a diagnosis code within the DSM.
No further questions or testimony in favor, opposing or neutral.

Senator Lee ended the public hearing on 2040.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2040
1/10/2017
Job Number 26757

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

"Click here to type reason for introduction of bill/resolution"

Minutes:

1 Attachment

Chairman Lee brought the committee to order, all members were present.

Pam Sagness, Director Department Behavioral Health: provided testimony, please see attachment 1We received language from Kurt Snyder, Board of Addiction Counselor Examiners, regarding a combination that would meet everyone's needs. DHS legal reviewed the following statement, "Addiction counseling means the provision of counseling or assessment of individuals regarding the use of substances or engagement in behaviors identified by the board including tobacco nicotine, alcohol or gambling. That does not include DSM, but the BACE also proposed an additional one that does identify DSM, that basically says that addiction counseling means the provision of counseling or the assessment of individuals regarding the use of tobacco nicotine alcohol or other harmful substances the engagement in gambling or the use of any harmful substance or engagement in any harmful behavior identified by the board in rule, any substance or behavior identified by rule must appear comparable to the disorders recognized by the DSM. So the department is still review that second version, but the department did review the first, and approved that language.

Senator Anderson: There were several people who said they liked the DSM in there, however I think the reference that they can do that by rule, leave DSM out might be easier to keep up the section, and so forth. They and the Department thought that that was a cleaner approach to take the DSM out.

Ms. Sagness: The entire practice of addiction counseling is based on the DSM. So there wouldn't be any work that would be done outside the DSM, it's how we diagnose, it's how we bill; it guides our entire profession. They wouldn't be able to do anything but follow DSM. In Item one, attachment #1, the 1st definition is the one that DHS had approved, we are still reviewing the 2nd version, which is the much longer version, with the DSM. DSM does update every few years. So there would be a need to be able to revise that frequently. It is something gthat we are dealing with in updating our own administrative code, it is a very large delay that can be a burden to our providers. They have to continue to do something that is unnecessary according to the new DSM, just because it hasn't been updated in rule yet. So we look at a year of work, they are quite frustrated.

Chair J. Lee: So by leaving the DSM language out, we would give the board more flexibility in that area.

Senator Anderson: I would recommend we hold this, print out that language so we can see what it is, and then move that language to the first page of SB 2088, then kill 2040 because it is redundant. At the same time, make the previous changes we discussed.

V-Chair Larsen: Is pornography and sexual addiction in the DSM yet?

Ms. Sagness: No, not yet. That is why psychologists are particularly concerned because if we were to open all behavioral addictions to be in the world of addiction counseling, it doesn't mean they have the training to treat, for example sex offenders, which is primarily in the world of psychologists. So it's important to note that the Century Code language guiding the board says that it does not inhibit or stop someone else from working within the scope of their profession. That's very important, because often when things are identified as part of the scope of one board, the others get concerned that it will eliminate their ability to do that same duty. In the Century Code, it clearly says this does not stop other professionals from practicing within the scope of their work.

V-Chair Larsen: Looking at the language, its other harmful substance or behavior, is that slipping in physical therapists or sports trainers.

Chair J. Lee: We will leave 2040 and 2088 until we hear back from Mr. Snyder.

Chair J. Lee: Closed the meeting on SB 2040.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2040
1/18/2017
Job Number 27067

- Subcommittee
 Conference Committee

Committee Clerk Signature *Mame Johnson*

Explanation or reason for introduction of bill/resolution:

A bill relating to scope of practice for addiction counselors.

Minutes:

0 Attachments

Chair J. Lee: brought the meeting to order, All members present.

Senator Anderson: I move do not pass.

V-Chair Larsen: I second.

Senator Anderson: We moved things from 2040 to 2088. We no longer need 2040, so if we do 2088 first, then we can get rid of 2040

Chair J. Lee: We'll hold them and submit on the same day, so we can have them on the same day's calendar.

A roll call vote was taken.

Motion passed, 7-0-0.

Senator Anderson will carry.

Chair J. Lee: Closed the meeting on SB 2040.

Date: 1/18 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2040

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 Anderson 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. Anderson

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

REPORT OF STANDING COMMITTEE

SB 2040: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2040 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

SB 2040

1/4
attachment #1
SB 2040

**TESTIMONY
SB 2040**

**House Human Service Committee
January 4, 2017
Representative Kathy Hogan**

Senator Lee and Members of the Senate Human Service Committee, my name is Representative Kathy Hogan, and I chaired the interim human service committee. This morning you will hear the first of six bills related to behavioral health. Attached is a summary of all of the interim behavioral health bills. The bills that have fiscal impact are being heard in the House and other policy related bills are being heard in the Senate.

SB 2040 is a relatively simply bill that broadens the definition of addiction counseling and clarifies addiction counseling practice. Section one broadens the definition of addiction and links to the established professional standards. This process clarifies and simplifies definition. Section two clarifies that addiction counseling is also permitted by other professionals as established by their statewide standards and practices.

Thank you for considering this bill. If you have any questions I am more than willing to answer them.

1/4
Attachment
#2
SB 2040

**Summary of Behavioral Health related bills
2015-2017 Interim Human Service Committee**

- SB 2038 *Behavioral health policy changes without fiscal impact*
Relating to behavioral health training in schools, involuntary
commitment, and early child hood providers and establishes a state
level Children's Behavioral Health Commission.
<http://www.legis.nd.gov/assembly/64-2015/interim/17-0182-05000.pdf>
- HB 1040 *Behavioral health expansion of services and related funding*
Relating to funding for behavioral health programs.
Expands minors in position services,
case management and related support services,
establishes early intervention BH services for young children,
supports 211 with better data base,
funds peer support services
<http://www.legis.nd.gov/assembly/64-2015/interim/17-0183-04000.pdf>
- SB 2039 *Relating to roles of DHS.*
Defines roles/responsibilities of human services center with a focus on
crisis and intervention services and services to adults and children with
serious and persistent mental illness. Modifies role of Advisory
Council. Defines separation of duties for policy and service division
- SB 2042 *Relating to reference to mental health professionals*
Establishes a tiered system of mental health professional to define roles
and responsibilities and scope of practice
<http://www.legis.nd.gov/assembly/64-2015/interim/17-0228-02000.pdf>
- SB 2040 *Relating to scope and practice of addiction counselors.*
<http://www.legis.nd.gov/assembly/64-2015/interim/17-0289-02000.pdf>
- SCR 4002 *Relating to the State Hospital.*
Constitutional amendment remove NDSH from ND Constitution
<http://www.legis.nd.gov/assembly/64-2015/interim/17-3010-01000.pdf>

Prepared by Representative Kathy Hogan



North Dakota Tobacco Prevention and Control Executive Committee

Center for Tobacco Prevention and Control Policy

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Phone 701.328.5130 • Fax 701.328.5135 • Toll Free 1.877.277.5090

1/4
attach #3
SB 2040

Senate Human Services Committee

Senate Bill 2088 and 2040

January 4, 2017

Madam Chair and committee members. I am Barbara Andrist, Statewide Program Manager for the ND Center For Tobacco Control and Prevention Policy. Our agency has been working with the North Dakota Board of Addiction Counseling Examiners, and the North Department of Human Services- Behavioral Health Division to expand the scope of practice for addiction counselors to include tobacco and nicotine. We are in support of Senate Bill 2088 and 2040.

SAMHSA from The N-SSATS Report in June 2014 and CDC Vital Signs February 2013 data show that smoking rates among individuals with a mental illness or substance abuse addiction are two to three times higher than in the general population. Individuals with substance use or abuse disorders who also smoke tend to smoke more and are four times more likely to die prematurely relative to individuals with drug problems who do not use tobacco. Tobacco use often leads to early death and disability among the very population that are being seen by addiction counselors.

The tobacco use disorder (nicotine dependence) has been in the DSM (Diagnostic and Statistical Manual of Mental Disorders) since 1980. Addiction counselors routinely assess for nicotine addiction but are now prohibited in counseling their clients about quitting nicotine products (combustible like cigarettes or electronic cigarettes). Either Senate Bill 2088 or 2040 will allow addiction counselors to identify and treat nicotine/tobacco addiction in the client's treatment plan utilizing their skill set.

Why is treating nicotine as the addiction so important?

- First of all, it is a mind altering, highly addictive substance.
- Nicotine has mood-altering effects which have the potential to act as triggers for substance abuse use and relapse.
- Like other smokers, persons with mental illness and substance abuse are interested in quitting and can be successful with counseling and pharmacology.
- **Treating tobacco use during addiction treatment increases likelihood of abstinence from alcohol and illicit drugs by 25%.**

Expanding the scope of practice to include tobacco, nicotine or other harmful substances will contribute to providing treatment for all tobacco users building on the relationship established with that counselor. Breathe ND have and plans to continue sponsoring statewide training opportunities to all counseling professionals with national leaders in their fields. Our agency is committed to continuing partnerships with counseling professionals, organizations and facilities to provide ongoing education, develop tobacco free grounds policies and assist in finding resources to ensure that all North Dakota clients seeking mental health and substance abuse treatment can access evidence based treatments.

Supporting either Senate Bill 2040 or 2088 will be a positive step for addiction counselors to not only treat tobacco and nicotine but other harmful substances and gambling or other behaviors.

Thank you for this opportunity to testify. I'd be pleased to answer any questions you may have.

Barbara Andrist MPH RN
328-5125 bandrist@nd.gov

SB 2040
Attache #1
1/10

NDLA, S HMS - Johnson, Marne



To: Lee, Judy E.
Tuesday, January 10, 2017 2:59 PM
Subject: NDLA, S HMS - Johnson, Marne
Fwd: special board meeting

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

Begin forwarded message:

From: "Sagness, Pamela T." <psagness@nd.gov>
Date: January 10, 2017 at 2:49:30 PM CST
To: "Anderson, Jr., Howard C." <hcanderson@nd.gov>
Cc: "Lee, Judy E." <jlee@nd.gov>
Subject: FW: special board meeting



Good Afternoon,

Below is the email Kurt sent to DHS regarding the language for 2040/2088. DHS had reviewed and approved #1. I have sent #2 to DHS legal to review also.

Thank you,

Pam

Pamela Sagness, Director
Behavioral Health Division
Department of Human Services

701.328.8824 | psagness@nd.gov
1237 West Divide Ave Suite 1C | Bismarck, ND 58501

From: Kurt Snyder [<mailto:kurt@heartview.org>]
Sent: Friday, January 06, 2017 7:16 PM
To: Lee, Judy E.; Anderson, Jr., Howard C.
Cc: Sagness, Pamela T.; Julijana Nevland
Subject: special board meeting



CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Dear Senator Lee and Senator Anderson,

The NDBACE had a special meeting to discuss concerns regarding SB 2088. Here are the main decisions of that meeting:

1. The NDBACE prefers the language proposed on January 4 in Senate Human Services committee. This language is as follows: "Addiction counseling means the provision of counseling or assessment of individuals regarding the use of substances or engagement in behaviors identified by the board by rule, including tobacco, nicotine, alcohol, or gambling."

We did however agree on language that could be put into century code that would meet our needs and intent.

"43-45-01: Addiction counseling means the provision of counseling or assessment of individuals regarding the use of tobacco, nicotine, alcohol, or other harmful substances, the engagement in gambling, or the use of any harmful substance or engagement in any harmful behavior identified by the board by rule. Any substance or behavior identified by the board by rule must appear comparable to disorders recognized by the "Diagnostic and Statistical Manual of Mental Disorders" (5th edition, text revision, American psychiatric association, 2010), or future edition approved by the board."

2. The board preferred to address the grandfathering in administrative rule. The specifics would include:

- ? A special designation would be created for this grandfathered population titled "Licensed Clinical Addiction Counselor" This would avoid the misperception that this group had attained an academic master's degree. They would be parallel with MAC having the same scope of practice including supervision, private practice, etc..
- ? The board could grant a license for LCAC with following criteria:
 - o Apply for a license as an Licensed Clinical Addiction Counselor (LCAC) on a form provided by the board;
 - o Pay the fee associated with the application;
 - o Possess a current license from the board to practice addiction counseling on December 31, 2017 (*this means ONLY those who are licensed as of this date can ever become an LCAC ...so no one who is licensed AFTER this date can ever become an LCAC (can only be an LAC or MAC);*
 - o On or before December 31, 2022, earn 10,000 hours of full-time clinical experience as a licensed addiction counselor (*this gives every person who was an LAC exactly 5 years to get their 10,000 hours; if they fail to get the 10,000 hours by this date they can never become LCAC).*

Kurt Snyder

Executive Director

Heartview Foundation