

**2017 SENATE HUMAN SERVICES**

**SB 2089**

# 2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee  
Red River Room, State Capitol

SB 2089  
1/4/2017  
Job Number 26509

- Subcommittee  
 Conference Committee

*Mary Sens*

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

A bill relating to medical peer reviews.

## Minutes:

1 attachment

**Senator Anderson** presented testimony (please see attachment #1) (29:40-36:05)

The modifications to the add a multi-disciplinary peer review board to evaluate controlled substance practices, with overdose prevention in mind. And protect the reviewers from discovery. This bill does not request funds, and does not recommend a location or size for review committee. Dr. Mary Sens, with the UND pathology department, has a list of recommendations for the committee, which is not presented today, as that is not the point of this hearing.

Dr. Duane Houdek, ND Board of Medical Examiners, gets reports from peer review boards if they feel physicians are doing something inappropriate, the proposed peer review board would check for inappropriate patient behavior.

**Senator Heckaman:** How would this start? Any recommendations for who would head this up? Health Dept, or a plan to start?

**Senator Anderson:** Not at this time. The barrier is the legal protections. This bill will say we can do it, then they can go ahead and hash it out. I would rather a private sector run this so we don't have to find funding.

**Senator Lee:** Somebody who might lead this effort, somebody's gotta be the flag bearer here.

**Senator Anderson:** We have had some discussion on this, the forensic pathologist could step up, somebody from one of the peer review committees, not wanting to place it with the regulatory board, it gets messy for the practitioners involved if the board that regulates them is also doing the peer review.

Hearing is closed 40:40

This bill just authorizes it, then the people that are interested can move from there. Senator Lee's concern is that somebody will do it, the need to do is there. If we mandate something, we have to tell someone to do it, then the Health Dept. or whoever has to find staff to do that. At this point the authorization is the point we need to get over in the first place. The money and other things will be solved later.

Senator Kreun wondered how often would these volunteers meet to accommodate the review board? That would be at the discretion of the board. Usually comparable committees meet on a quarterly basis. Obviously, if the forensic examiner came up with a case they probably would meet on an ad hoc basis.

**Senator Lee:** Dr. Sens has noted that many times when a family requests an autopsy for an unexplained death, drug involvement is present in more cases than one would imagine. More death examiners is something we could chat more about as the session moves on.

**Senator Piepkorn:** Have doctors found it to be a problem? They are doing an autopsy and find cause of death to be prescription drugs just having a problem tracking it down where is this person getting these drugs from, why is this death happening? What leading to that?

**Senator Anderson:** The pathologist finds multiple drugs in the system, they don't always know where they came from but sometimes they do, the Prescription Drug Monitoring Program (PDMP) where you can identify where that person might have gotten prescriptions, either prescribed or dispensed within the state or other states. Beyond that the effort is to try and get to the base of the problem, for example, if a multitude of prescribers are prescribing repeatedly for a patient who is overdosing, that means they are missing something in that patient's care; whether they should have been referred to treatment or tapered off the drug onto something else, those things, which unless you get back to the practitioners who were taking care of that patient, and you look at the broad scope of what happened and why, you can't solve it for the next person.

That's the goal here, not to prosecute for whoever did it, but to try and solve it for the next patient. That's what Dr. Sens concern is, when we see this, multitude of prescribers and the patient overdosing because of this did this person know that this person was doing and so forth. When you pull all these medical records together, then you can get a clearer picture of what happened to the patient, and all of the practitioners involved would learn from that. That's the goal.

**Senator Piepkorn:** As a pharmacy owner, do you see the value in this? It's going to improve things and allow this information to come out?

**Senator Anderson:** My personal opinion is whenever you get three pharmacists or three physicians in the room, they'll almost always make the right decision. But when you have one individual out there who is trying to take care of a patient without all of the information and so forth sometimes we make mistakes.

**Senator Lee:** The PDMP really is a wonderful tool here, and people who are prescribing and dispensing, they are supposed to be reporting here, and one of the ER docs in Bismarck was testifying a couple years ago about the importance of knowing, it doesn't even have to be an illegal drug, but to know what might have been prescribed to an individual who might present in an emergency room, because maybe it's an allergic reaction to a drug that has been prescribed. It's important for people who see more than one medical practitioner, it's important for those individuals to know what else has been prescribed by another provider. The PDMP is a wonderful tool, but it isn't the only one. The benefit of having, if I'm going to go to multiple providers, maybe even out of state, let's make sure that all of that data is available to the person, obviously privacy protected, but the data needs to be available to the end prescriber what else am I being given? This will allow the various review boards in more than one hospital to have access to that data. And those various peer review boards can be involved with setting up something like this so that it can be privately administered. I don't think this should be a government thing, I don't think the Health Department needs to be the repository for it either. I personally think it's a good idea.

**Senator Clemens:** The length of prescription is something to be aware of as well. The prescription may be for 30 days, when in fact a week may have been better. Just another thing to be aware of.

**Senator Anderson:** That is actually one of the focuses of the statewide coalition, education for our practitioners. We've changed the law, it used to be that you could not fill a prescription partially, it was all or get a new prescription, now we can partially fill. Now the patient can get a week's supply when they get the prescription, and come back and get more if they need it, if not, then there are not extra drugs floating around. That is one of the ongoing efforts. And if a practitioner that gives out 30 or 60 day supplies is sitting in a peer review board, and they ask him, why do you do that? He might change his ways.

**Senator Piepkorn:** Is there pressure on doctors from pharmaceutical sales people to prescribe a certain amount of drugs, are there incentives for doctors to write out particular prescriptions for particular lengths of time?

**Senator Anderson:** The book Dreamland blames the pharmaceutical industry for creating the opioid epidemic we have today. They promote the medications, they pay a \$600 million fine for say that people wouldn't get addicted if they had real pain, and of course that proved to be false. There were some research papers that indicated that if you really had pain maybe you wouldn't get addicted and pharmaceutical companies repeated that, and yes, there is pressure.

**Senator Lee:** There has been federal regulation passed regarding some of the incentives and rewards for physicians, there has been federal addressing of that as well. We should wrap up discussion on this if you are ready to move forward on this bill, great, if you want to hold on, we will talk about this more later. Is there any further discussion? If not is there a motion on the bill?

**Senator Anderson:** I'll move Do Pass on 2089, Senator Lee.

**Senator Larsen:** Seconded.

**A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Anderson will carry the bill.**

Date: 1/4 2017  
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2084

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 none

Floor Assignment Sen. Anderson

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

**REPORT OF STANDING COMMITTEE**

**SB 2089: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS**  
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2089 was placed on the  
Eleventh order on the calendar.

**2017 HOUSE HUMAN SERVICES**

**SB 2089**

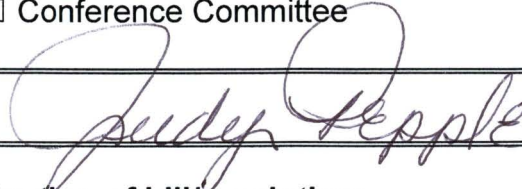
# 2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee  
Fort Union Room, State Capitol

SB 2089  
3/1/2017  
28556

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

Relating to medical peer reviews.

## Minutes:

1

Chairman Weisz: Called the committee to order.  
Opened the hearing on SB 2089  
Is there testimony in support of SB 2089?

Senator Howard C. Anderson Jr.  
(Attachment 1)

This is simply to do a peer review with all the people involved, so that whatever negative outcome might be avoided for the next person. All of the patient records will remain confidential unless there is determined to be illegal activity and then it has to be reported, but otherwise it remains confidential. The first step is to have it in statute that we have a statewide peer review group, we have the confidentiality protections and we have access to the patient's records. We also have confidentiality for the providers unless it is clear that they did something illegal. Our recommendation is that it not be housed with the regular peer board, because then the practitioners involved may look at it as a disciplinary thing. The intent is to solve the problem so that we can prevent deaths by overdose.

Chairman Weisz: Are there questions from the committee?  
Who refers the cases? You say any referred case, so who is it that has the ability to refer cases?

H. Anderson: At this point that is not established. It could be the medical examiner. It could be one of the hospital's peer groups, for example a hospital may say that their practitioner prescribed to this individual, but so did 6 others. This would enable them to bring all the records to one place. Right now, peer review groups do not have the authority to share like from Minot to Grand Forks or Fargo, because those practitioners don't work for them, but this will give this group the authority to do that.



Vice Chairman Rohr: During the interim they were talking about coming up with some technology on collecting data from autopsies and reporting. Is this going to be redundant or another source? How does this all fit together?

H. Anderson: Even if we have the records, we still haven't talked to the practitioners or the pharmacists yet, and this gives us the authority to do that.

P. Anderson: When you talk about a referred case, could it be like an almost overdose death? Would they all be autopsies, or could it be someone that didn't die, but could have if there was not an intervention? Would that still be a referred case just based upon their tox screen?

H. Anderson: Yes, it could be, but that would have to come from the hospital.

Representative McWilliams: I am assuming that it is in the bill and I just haven't found it, but does the bill clearly identify that the peer review cases will only be for those cases where the patient is deceased?

H. Anderson: The bill originally came to us from the forensic examiners, so that is why it was written the way it is. Certainly it could be under some circumstances where we could expand it to others, but that was the intent of the bill.

Representative Seibel: Who would designate this peer review entity. Who has the power to set up that peer review in this legislation? Not just the power, but the have to to do it?

H. Anderson: That was left blank at this time, because I did not want to designate anybody, but I wanted to give them the opportunity. Perhaps in the next session if they say this looks like a good idea, they are going to have to come to us with more specifics. Right now they need the authorization to really get started and to say we could do this. It could be the health department, but that costs money. It could be UND, but they have to figure out whether it is going to cost them money too.

Chairman Weisz: It would be your understanding that the Health Dept. would have the authority to do it and could put this into place before next session if they wanted to, but it just doesn't mandate them or anyone else.

H. Anderson: Yes, they could do it, but I didn't want to add more to their plate.

Chairman Weisz: Is there further testimony in support of SB 2089?  
Is there any testimony in opposition to SB 2089?

Closed the hearing.

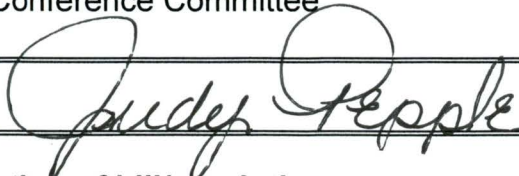
# 2017 HOUSE STANDING COMMITTEE MINUTES

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

SB 2089  
3/1/2017  
28559

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

Relating to medical peer reviews.

## Minutes:

Chairman Weisz: opened the discussion on SB 2089

P Anderson: I think that anything we can do to reduce the opiate deaths should be done. I move for a do pass on SB 2089.

Representative Porter: second

Chairman Weisz: discussion

Representative Skroch: Has there been a lot of trouble telling why someone has died from an opiate overdose?

Chairman Weisz: These are just so that we can trace where the drugs came from or whatever. Why are they dying from opiate overdose? Was there a crack in the system that they fell through? It is just so that there can be communication between the parties that might have been involved in giving them meds or prescribing them. It just puts it in code so that the communication can take place without problems for those sharing information. It doesn't mean someone did something wrong, but somehow this person got enough of the opiates to overdose and die, so we want to know how that happened. Where did the meds come from.

Representative Skroch: We need this law so that they can share information with all of the agencies that might have been involved?

Chairman Weisz: Yes, this would allow that. It is not to investigate the prescribers or doctors, they just want to know why people had that amount of the drugs.

Representative McWilliams: I support this bill. Is it a problem that we are creating a bill to address deceased individuals, but we don't actually say deceased individuals in it?

Representative P. Anderson: That is why I asked the questions about the referred case where someone came in to the emergency room and they were able to save them, but their tox screen was terrible, they could still do it for them even though they were not deceased.

Chairman Weisz: Most likely they will be deceased because we know that they died from an overdose. It is easier to know that it was an opiate overdose then, but it could be for someone that survived.

Representative McWilliams: So would that mean that anybody could do a peer review on anyone without the permission of the patient?

Chairman Weisz: This is not investigating the patient, but the provider that filled prescriptions or where did they get the drugs. How could they have gotten enough to overdose on something. Maybe investigation is not the right word. It is to find out how and why did they get this drug. Did they get more than one prescription or what? It has nothing to do with going after the patient.

Representative McWilliams: Does this open up HIPPA laws?

Chairman Weisz: No, it does.

Chairman Weisz: Are there further questions on this? I want the committee to be comfortable. Ok, if there are no more questions, the clerk will call the roll for a do pass on SB 2089.

Roll call vote taken. Yes 11 No 2 Absent 1

Chairman Weisz: motion passed. Do I have a volunteer to carry this one?

Representative B. Anderson: I will carry it.

Closed.

Date: 3-1-17  
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. S.B. 2089**

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. P. Anderson Seconded By Rep. Porter

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

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. P. Anderson

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

**REPORT OF STANDING COMMITTEE**

**SB 2089: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2089 was placed on the Fourteenth order on the calendar.

**2017 TESTIMONY**

**SB 2089**

Testimony of Howard C. Anderson Jr. on Senate Bill No. 2089

January 4, 2017 before the Senate Human Services Committee.

Senator Judy Lee Chair.

Chair Lee and members of the Senate Human Services Committee.

This a bill which comes out of work that has been done by a broad coalition working on keeping drugs and in particular opiates out of our systems when we are not legitimately treating pain.

Dr. Mary Sens, who is with the pathology department at UND, does many of our autopsies for the counties in eastern North Dakota. Dr. Sens suggested this idea as a way to get practitioners and pharmacists across the state together in a peer review environment to see if they can solve some of the problems of many prescribers and many pharmacists providing medications to a person at multiple locations and then that person dying as a result of an overdose.

This bill simply authorizes the idea and gives the statewide group the same protections from discovery as our hospital peer review committees. It also protects the confidentiality of the patient information used in the review, without which we would not be willing to review specific cases.

The bill does not give the idea to any specific agency or board, but allows the formation of the group, which is the first step. Funding will need to be provided by another means and is not provided by this bill. Those in the private sector who think it is worth pursuing will need to solve those problems once you have authorized them to move ahead.

Thank you,

Howard

SB. 2089 AH.1  
3-1-17

Testimony of Howard C. Anderson Jr. on Senate Bill No. 2089

March 1, 2017 at 2:30 PM in the Fort Union Room before the Senate Human Services Committee. Representative Robin Weisz Chairman.

Chairman Weisz and members of the House Human Services Committee.

This a bill which comes out of work that has been done by a broad coalition working on keeping drugs and in particularly opiates out of our systems when we are not legitimately treating pain.

Dr. Mary Sens, who is with the pathology department at UND, does many of our autopsies for the counties in eastern North Dakota. Dr. Sens suggested this idea as a way to get practitioners and pharmacists across the state together in a peer review environment to see if they can solve some of the problems when many prescribers and many pharmacists provide medications to a person at multiple locations and then that person ends up dying as a result of an overdose. There is currently no way to address these issues with the practitioners and pharmacists, who may work for several different organizations, each with their own, but separate, peer review committees.

This bill simply authorizes the idea and gives the statewide group the same protections from discovery as our hospital peer review committees. It also protects the confidentiality of the patient information used in the review, without which we would not be willing to consider specific cases.

The bill does not give the idea to any specific agency or board, but allows the formation of the group, which is the first step. Funding will need to be provided by another means and is not provided by this bill. Those in the private sector who think it is worth pursuing will need to solve those problems once you have authorized them to move ahead.

Thank you,

Howard