**2019 HOUSE HUMAN SERVICES COMMITTEE** 

HB 1279

#### 2019 HOUSE STANDING COMMITTEE MINUTES

#### **Human Services Committee**

Fort Union Room, State Capitol

HB 1279 1/28/2019 31577

☐ Subcommittee
☐ Conference Committee

|   | Committee Clerk Signature Nicole Klaman   |  |
|---|---|--|
| E | Explanation or reason for introduction of bill/resolution:                                |  |
| F | Relating to membership of board of chiropractic examiners and to provide for application. |  |

Minutes:

1.

Representative Thomas Beadle, District 27 Fargo: Introduced HB 1279, see attachment

This bill would adjust the nomination structure for the Board of Chiropractic Examiners so that one specific association isn't solely responsible for putting the members forward to the Governor for deliberation. Also, it would open it up so that any licensed member may be appointed by the Governor. (0:07:27)

**Chairman Weisz**: Questions from Committee? Seeing none, is there further support?

(0:07:44-0:10:40)

**Dr. Steve Nagel**, Doctor of Chiropractic, BSN, owner of 180 Chiropractic and 180 Weight Loss: Provided supporting testimony, see **attachment 2.** 

**Representative Karen Rohr:** What is the percentage of Chiropractors that are not members of North Dakota Chiropractic Association (NDCA)?

Dr. Steve Nagel: I will defer that question to my colleague Dr. Becky Perry-Domres

Chairman Weisz: Further questions? Further support?

(0:11:29-0:15:25)

**Dr. Becky Perry-Domres, DC,** Citizen of Minot, Owner of Premier Chiropractic, NDCA Member: In support, see **attachment 3.** 

**Dr. Jake Schmitz**, citizen and chiropractor in Fargo: Not present for verbal testimony, written received-see attachment 4

Chairman Weisz: Questions? Seeing none, Thank you. Further support? Seeing none,

opposition?

# **Opposition:**

(0:15:57-0:18:53)

**Dr. Eric Seamands**, Chiropractor in Bismarck, SW District Director for the NDCA: Opposed, see **attachment 5**.

**Representative Todd Porter:** Are you on the board?

Dr. Eric Seamands: NDCA?

**Rep. Porter:** No board of examiners?

Dr. Eric Seamands: No sir.

**Rep. Porter**: I'm looking through the list of people on the board and I am not seeing a public member. Is it just the 5 members appointed by the governor and they are all practitioners?

**Dr. Eric Seamands**: That is correct, 5 licensed chiropractors on the board.

(0:19:45)

**Representative Kathy Skroch**: Reading through your testimony, you describe how vacancies are filled with the North Dakota Chiropractic Examiner's Board (NDSBCE). Is there an avenue for a nonmember to serve on the ND Chiropractic Board of Examiners? If so, please describe.

**Dr. Eric Seamands**: Yes, there is an avenue. See attachment 5, Paragraph 4, line 1-8 is the process. However, a public meeting will be held for chiropractors licensed in the state just prior to the Examiner's Business meeting. Our admin assistant sends letters and calls those who's telephone numbers are registered with the Board of Examiners.

**Rep. Skroch**: Are you aware of any nonmembers who have served or who are currently serving?

**Dr. Eric Seamands**: I am not aware of any but someone in the lineup may.

**Vice Chair Karen Rohr**: You are not a member of the examiners board, but, have you ever received a survey from the medical examiner's in terms of any needs or suggestions those who are nonmembers, 40-50%, would like addressed?

**Dr. Eric Seamands**: I don't believe so, as their job is to protect the public. I do not see them reaching out to nonmember chiropractors regarding their needs to protect the public.

**Chairman Weisz**: Further questions? Seeing none. Further opposition?

(0:22:48-0:26:43)

Representative Alisa Mitskog, Chiropractor from Wahpeton: Opposed, written testimony not provided. Chiropractors take the Board of Examiner's Election very seriously it's been a high priority to maintain our profession's integrity. A group of peer's is going to uphold the profession's integrity and keep the profession safe. Due to this, I believe a group of peers is the best suited to select candidates, this will allow for transparency and allow opportunity for all to apply. How would the governor know who is best to serve the board? 2 concerns for me regarding this bill is 1. There aren't any term limits. I think longer than 2 terms you aren't serving the profession. 2. Equal representation across the state.

Representative Bill Tveit: Currently the board members are selected from regions?

Rep. Mitskog: yes

**Rep. Tveit**: Under current practice, is there anything to prohibit someone for submitting directly to the governor.

**Rep. Mitskog**: I believe the testimony from the board will help with that question. But what I do know is annually there is an opportunity for anyone to apply for an open seat.

**Rep. Tveit**: So currently that applicant would still have to come through the association to receive that nomination?

**Rep. Mitskog**: I would defer this question to the board.

**Chairman Weisz**: Further questions? Seeing none, thank you. Further opposition?

**Dr. Eric Froehling**, member of NDSBCE: Opposed, see **attachment 6**.

**Representative Matthew Ruby**: Could the Board of Examiner's add term limits? I just don't see why they would be reliant on an organization if they can do it on their own accord.

**Dr. Eric Froehling**: I believe we could if it were supported in Century Code.

**Representative Todd Porter**: There are 2 opposing organization and their memberships are about even, at 50/50. Why can't we split the nominations just the same? For election, Organization 1 gets 2 nominations and Organization 2 gets 2 nominations.

**Dr. Eric Froehling**: To be clear, I'm on the Board of Chiropractic Examiners, appointed by the governor and there are 5 of us on that board. The Trade Association is a ND Chiropractic association that you would pay dues if licensed in ND. "The other group, I didn't know they existed since yesterday. So the 50/50 split wouldn't work because there are more than 2 groups.

**Rep. Porter**: I'm not caring so much about associations as I am about the process. From the Boards standpoint, how a name gets submitted to the governor. If you have half of the chiropractors through an association, per that process, should they get more than half of the letters of nomination or should the governor also have the ability to get names from another

association or trade group. At one point in time, this one association was probably the only association. And the only association when this law was written. Now things have changed with additional groups or associations. Should they not get an equal opportunity to nominate inside of those positions using their process?

**Dr. Eric Froehling**: From a Board of examiner's perspective, if you meet 46-03-03 requirements you may submit your name through the current process. An open to public meeting is held before the NDCA meeting. Any license holder can show up and get nominated, so it is equal in that case.

**Rep. M. Ruby**: In the open to public NDCA meeting, or the meeting when the applications are submitted. Does anybody get to vote in that meeting or just the NDCA members?

**Dr. Eric Froehling**: No, that is a Public meeting held prior to the NDCA meeting, so it's open to everyone.

**Rep. Tveit**: Anybody can submit their name in the open meeting. Then the names that go to the governor come out of the association meeting, correct?

**Rep. Tveit**: The open meeting is opened to public. During the meeting they vote on the submittals and the 3 names are then given to the governor. It's my understanding anyone can vote.

**Rep. Skroch**: Are you aware of anyone serving on the state board of examiners who is not a member of the NDCA?

**Dr. Eric Froehling**: I am not aware of the affiliations of all serving board, past and current.

**Rep. Schneider:** Can you describe the process prior to the voting? Are there nominations, speeches, resume sharing?

**Dr. Eric Froehling**: Public meeting where someone could nominate themselves or by a peer. A vote takes place and 3 are selected to go to the governor.

**Rep. Schneider**: There's been some conversation about other organizations and if license holders aren't members of one they must be of another. How many other organizations and their enrollment?

**Dr. Eric Froehling**: I do not know numbers of other organizations, NDCA has been around for a number of years.

**Representative Greg Westlind**: How many nonmembers show up for the public meeting? If so, how many recommendations do they make?

**Dr. Eric Froehling**: In the meetings I've been to, very few.

**Representative Dwight Kiefert**: If this passes, would the person need to be a chiropractor to be on the board?

Dr. Eric Froehling: Yes, per Century Code 43-06-03.

Chairman Weisz: Further questions? Further Opposition?

Chairman Weisz: closes hearing

Testimony received outside hearing

Support:

**George B Curry**, DC, FICA, President of International Chiropractors Association (ICA): In support, see **attachment 7**.

#### 2019 HOUSE STANDING COMMITTEE MINUTES

#### **Human Services Committee**

Fort Union Room, State Capitol

HB 1279 2/5/2019 32177

☐ Subcommittee
☐ Conference Committee

| Committee Clerk Signature Nicole Klaman   |  |
|---|--|
| Explanation or reason for introduction of bill/resolution:                                    |  |
| Relating to membership of the board of chiropractic examiners; and to provide for application |  |

Chairman Weisz: opened meeting

Minutes:

**Representative Todd Porter:** I'd like to introduce my guest for the day, Carson Masseth who is a freshman at Mandan High School.

**Chairman Weisz**: I visited with **Rep. Alisa Mitskog** this morning and she said she was fine with the Amendments that were provided by the Chiropractic Association, she was opposed to the bill. It adds 2 more members, a citizen member and a chiropractic assistant. In addition it outlines the qualifications and rules associated with these members.

**Vice Chair Rohr:** I move to adopt the amendments.

Representative Kathy Skroch: Second.

**Vice Chair Rohr:** Who brought the amendments forward?

**Chairman Weisz:** The Chiropractic Association. The amendment keeps the intent of the original bill which was that the votes had to be through the association. But it does put the requirements in like, who can serve on the board, how long of term, etc. That was eliminated by the original bill 1279.

**Representative Dick Anderson:** I received a lot of calls and they kind of have 2 groups that are fighting amongst themselves, State Vs. Chiropractors.

**Chairman Weisz**: Boards tend to have conflicts. It does appear the association was willing to concede the point of allowing them to be directly nominated to the governor. But they want to make sure the same requirements and restrictions are in place. Plus, I recall Rep. Porter's question having to do with citizen member and they decided it was important, so that was added. They also added another for a total of 7 members.

Voice Vote: Motion to adopt amendment carries

**Representative Matthew Ruby**: Looking at the amendment, "No member shall serve more than 2 consecutive terms. In theory, you can do 2 years take a break and go back again.

**Chairman Weisz:** That is the current restriction they have.

Rep. Anderson: I think down the road they are possibly going to switch it to three 3 year

terms.

**Rep. Porter:** I move a Do pass as amended.

Rep. Anderson: Second

Roll Call Vote: Yes 12 No 0 Absent 2

**Motion Carries; Do Pass As Amended** 

Rep. Anderson: Carrier

19.0784.01001 Title.02000

## Adopted by the Human Services Committee

 $\frac{1}{1000} = \frac{2/5/19}{1000}$ 

February 5, 2019

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 1, replace "section" with "sections 43-06-03 and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 43-06-03 of the North Dakota Century Code is amended and reenacted as follows:

# 43-06-03. State board of chiropractic examiners - Members - Appointment - Qualifications.

- The state board of chiropractic examiners shall consist of fiveconsists of seven members appointed by the governor. The members are:
  - a. Five doctors of chiropractic;
  - b. One certified chiropractic clinical assistant; and
  - c. One consumer member.
- 2. Each persondoctor of chiropractic appointed must:
- 1. a. Have a license to practice chiropractic in North Dakota.
- 2. b. Have been a resident of this state and have practiced chiropractic in this state for at least five consecutive years immediately before appointment to the board.
- 3. <u>c.</u> Remain a resident of this state and continue in active practice in this state during the term of office.
  - d. Be a licensee in good standing and must not be the subject of a pending investigation by the board for violations under this chapter.
- 3. Each certified chiropractic clinical assistant appointed must:
  - a. Be certified as a chiropractic clinical assistant and meet the requirements of section 43-06-16.1.
  - Be actively engaged in the practice of a certified chiropractic clinical assistant in the state for at least five years immediately preceding appointment to the board.
- 4. Each consumer member appointed:
  - a. Must be a resident of the state for at least five years immediately preceding appointment to the board.
  - b. May not have personal or familial financial relationships to the chiropractic profession.

 $\frac{DP}{2/5/14}$ 

- May not be, and may not be a spouse of, a doctor of chiropractic, certified chiropractic clinical assistant, or licensed health care professional.
- 5. An individual appointed to the board as a certified chiropractic clinical assistant may not participate in any activities related to the clinical examination of chiropractic licensure applicants.
- 6. An individual appointed to the board as a consumer may not participate in any activities related to the clinical examination of chiropractic or certified chiropractic clinical assistant licensure applicants."

Page 1, after line 6 insert

"1."

Page 1, line 9, overstrike "one term"

Page 1, line 10, overstrike "and"

Page 1, line 10, after the second "one" insert "term"

Page 1, line 10, overstrike "each" and insert immediately thereafter "any"

Page 1, line 10, after "year" insert: "except:

- a. Every fifth year, the governor shall appoint a doctor of chiropractic and a certified chiropractic clinical assistant to the board.
- b. Two years after the appointments in subdivision a, the governor shall appoint a doctor of chiropractic and a consumer member to the board
- 2. A member may not serve for more than two consecutive five-year terms.
- 3. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy."

Renumber accordingly

Date 5-19
Roll Call Vote #:

# 

| House Human Services   |          |          |  | Comi  | mittee |
|--|----------|----------|--|-------|--------|
|  |          | ocomm    |  |       |        |
| Amendment LC# or Description:  | 0/8      | 4.0      | 1001   |       |        |
| Recommendation:  Adopt Amendation:  Do Pass  As Amended  Place on Constitution  Other Actions:  Reconsider | Do Not   |          | <ul><li>☐ Without Committee Red</li><li>☐ Rerefer to Appropriation</li><li>☐</li></ul> |       | lation |
| Motion Made By Rep. Rohr   |          |          | conded By Rep Skrou  |       |        |
| Representatives  | Yes      | No       | Representatives  | Yes   | No     |
| Robin Weisz - Chairman   |          |          | Gretchen Dobervich   | -     |        |
| Karen M. Rohr – Vice Chairman  |          |          | Mary Schneider   | +     | -      |
| Dick Anderson  | 1        |          |  | +     |        |
| Chuck Damschen Bill Devlin   | -        |          |  | -     |        |
|  |          |          |  | +     |        |
| Clayton Fegley  Dwight Kiefert   |          |          |  | +     |        |
| Todd Porter  |          |          |  | +     | -      |
| Matthew Ruby   |          |          |  |       | - 1    |
| Bill Tveit   |          |          |  |       | -      |
| Greg Westlind  |          |          |  |       |        |
| Kathy Skroch   |          |          |  |       |        |
| Trainy Orloon  |          |          |  |       |        |
| Total (Yes)  |          |          |  |       |        |
| Floor Assignment   |          |          |  |       |        |
| f the vote is on an amendment, briefly   | indicate | e intent | Lacat Odi  | onted | )      |
| Voice Vote: Motion   | Carr     | ils,     | amendment adi  | pica  |        |

Date: 3-5-19
Roll Call Vote #:

# 2019 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1279

| House Human Services   |                                       |          |   | Com         | mittee   |
|--|---------------------------------------|----------|---|-------------|----------|
|  | ☐ Sul                                 | ocomm    | ittee   |             |          |
| Amendment LC# or Description:  | 1.07                                  | 84.      | 01001   |             |          |
| Recommendation:  Adopt Amendation:  Do Pass  As Amended  Place on Constitution  Other Actions:  Reconsider | Do Not                                |          | <ul><li>☐ Without Committee Re</li><li>☐ Rerefer to Appropriation</li><li>☐</li></ul> |             | dation   |
| Motion Made By Rep. Portex   |                                       |          | conded By Rep. And  |             |          |
| Representatives  | Yes                                   | No       | Representatives   | Yes         | No       |
| Robin Weisz - Chairman   | \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ |          | Gretchen Dobervich  | <del></del> |          |
| Karen M. Rohr – Vice Chairman  | <b>\</b>                              |          | Mary Schneider  | X           | $\vdash$ |
| Dick Anderson  | <b>├</b>                              |          |   |             | -        |
| Chuck Damschen   | <u> </u>                              |          |   |             | -        |
| Bill Devlin  | X                                     | _        | -   | -           | -        |
| Clayton Fegley   | ×                                     |          |   |             |          |
| Dwight Kiefert Todd Porter   | 100                                   |          |   |             | -        |
| Matthew Ruby   | X                                     |          |   | _           |          |
| Bill Tveit   | ×                                     |          |   | _           |          |
| Greg Westlind  | 21                                    |          |   | 1           | -        |
| Kathy Skroch   | X                                     |          |   | _           |          |
| really oxfoci  | V                                     |          |   |             |          |
|  |                                       |          |   |             |          |
| Total (Yes) 12 Absent 2  |                                       |          | D   |             |          |
| Floor Assignment Rep. Und  | erso                                  | <u>n</u> |   |             |          |

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

Module ID: h\_stcomrep\_23\_017 Carrier: D. Anderson Insert LC: 19.0784.01001 Title: 02000

#### REPORT OF STANDING COMMITTEE

HB 1279: Human Services Committee (Rep. Weisz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1279 was placed on the Sixth order on the calendar.

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Page 1, after line 3, insert:

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  - May not be, and may not be a spouse of, a doctor of chiropractic, certified chiropractic clinical assistant, or licensed health care professional.

Module ID: h\_stcomrep\_23\_017 Carrier: D. Anderson Insert LC: 19.0784.01001 Title: 02000

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- 3. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy."

Renumber accordingly

## **2019 SENATE HUMAN SERVICES**

HB 1279

#### 2019 SENATE STANDING COMMITTEE MINUTES

#### **Human Services Committee**

Red River Room, State Capitol

HB 1279 3/19/2019 Job # 33951

☐ Subcommittee☐ Conference Committee

| Committee Clerk: Justin Velez  |                  |  |  |
|--|------------------|--|--|
| Explanation or reason for introduction of bill/resolution:                                     |                  |  |  |
| Relating to membership of the board of chiropractic examiners; and to provide for application. |                  |  |  |
| Minutes:   | Attachments #1-4 |  |  |

Madam Chair Lee opens the hearing on HB 1279.

(00:19-03:23) Representative Thomas Beadle, District 27 introduces HB 1279 and provides testimony. Please see Attachment #1 for written testimony.

**Madam Chair Lee:** You will be happy to know that there is an occupational licensing board bill in front of your Government and Veterans Affairs Committee that Representative Casper's committee heard last week that is going to, I hope, clarify and make some consistency in things such as permitting the governor to remove people.

Representative Beadle: That would help alleviate the concerns

**Madam Chair Lee:** Right now the Governor has the right to appoint but no right to remove. I just urge you to stay tuned in for the occupational licensing bill in place.

**Representative Beadle:** That might clarify the concerns that I had with the language that was added in in terms of the issue being that somebody who has an investigation is not allowed to serve on the board. That might be able to help alleviate those concerns.

**Madam Chair Lee:** Representative Casper would be happy to hear any comments that you might have relating to that as well.

**Representative Beadle:** I was unaware that bill was in his committee. As I mentioned this bill went through the house human services committee before it came over here so those committee members were unaware of those bills progressing as well. I will certainly weigh in there.

(05:30-12:53) Dr. Jake Schmitz, Licensed Chiropractor in North Dakota. Testifying in support of HB 1279. Please see Attachment #2 for written testimony.

(11:55) Senator Anderson: In all these boards the governor makes a couple of hundred appointments a year and we have to have some confidence in the Governor's office that they are going to seek some diversity geographical or whatever. In my experience they almost always try to do that it's not always possible but the Governor does a pretty good job at that.

**Jake Schmitz:** I completely agree; my concern was if we don't have that language in there then it is not a concern. If the language is in there now that becomes a problem. Instead of adding more to it, we can keep it what it is and the Governor will choose the best qualified candidate in my opinion. Thank you for allowing me the opportunity to speak I appreciate it and I would answer any additional questions if there are any.

Madam Chair Lee: Any questions for Dr. Schmitz? If not, thank you.

(14:00-15:40) Lisa Blanchard, Executive Director of the North Dakota Board of Chiropractic Examiners. Testifying in support of HB 1279. Please see Attachment #3 for written testimony.

**Senator Hogan:** I don't know that much about chiropractors, how many are there, what is the distribution, how many are members of the association? Tell me a little background information on chiropractors.

**Lisa Blanchard:** As of yesterday there are 440 active license holders and 54 inactive license holders which means they do not practice in the state. There are currently 100 certified chiropractic clinical assistants.

**Senator Hogan:** What is the geographical distribution? Did you plan your districts on geographical distributions?

**Lisa Blanchard:** Yes and no, it is part of the current structure that the North Dakota Chiropractic Association had, that's where this list comes from but I can give you numbers. Group 1 of the amendment has 133 active members, group 2 has 46, group 3 has 75, group 4 has 133, group 5 has 31. That is just active that does not count the inactive.

**Senator Hogan:** Those are licensed chiropractors not members of an association?

**Lisa Blanchard:** Correct, I do not have the association numbers but there is representation from them here and they will be able to answer that question for you.

Madam Chair Lee: We have this other licensing bill that is still being worked in the house. I know one of the challenges for the Governor's office was finding people who are willing to take the time and do the traveling and so forth. The idea of having advice to the Governor or recommendations to the Governor to consider geographic distribution has always been a part of the deal. We don't want them all from Bismarck because that is easy. I'm a little troubled for it to require to be that way so that may be part of our conversation here. There is a big difference between having 31 in a group than 133 in a group and that isn't really equal representation.

**Lisa Blanchard:** This is everybody that is licensed that doesn't do the meeting eligibility requirements, I did this quickly yesterday because I thought you might ask that and I didn't back it up to who would actually be eligible. I did do a rough estimate and there are slightly over 100 of that 440 that would not be eligible because they have not been in practice for at least five years. The majority of those, just a rough estimate, Fargo and Bismarck because that seems where the new people are landing.

**Senator O. Larsen:** Are there any chiropractors that practice on critters?

**Lisa Blanchard:** We do not have a registration or a certification process for animal chiropractic and I believe that is under the scope of practice of the veterinarian.

Madam Chair Lee: What a wonderful thought.

**Lisa Blanchard:** There is a veterinarian who specializes in it.

(21:37-24:58) Kris Anderson, Licensed Chiropractor and President-Elect for the ND Chiropractic Association (NDCA). Testifying in support of HB 1279. Please see Attachment #4 for written testimony.

**Senator Hogan:** Of the 440 active chiropractors how many of them are members of your association?

**Kris Anderson:** When HB 1279 passed the floor, our membership was at 226, I don't have an updated number from that.

**Senator Hogan:** Are they representative of all the regions of the state, rural and urban? Representation how does it compare geographically?

**Kris Anderson:** I don't have that broken down, it matches the percentage of each district.

Madam Chair Lee: Any further questions for Mr. Anderson? If not, thank you. Further testimony? Opposition? Neutral?

**Senator O. Larsen:** Can I get an explanation on what a chiropractic assistance job is?

**Lisa Blanchard:** It's a training process, there is an education process, national exam, and state certification. It has been in effect since 2017. They can do delegated duties underneath the chiropractor within the scope of their education whether that is removing therapeutic pads, and ice packs. There is the caveat that you are not required to be a certified chiropractic clinical assistant either if you are doing non clinical duties like answering the phone and greeting patients.

Madam Chair Lee: Is there a school?

**Lisa Blanchard:** Everything is online based?

**Senator O. Larsen:** I was just wondering on how that rolls in on the duties like a massage therapist and the chiropractic assistant, where they are on the professional totem pole. They must be a little higher than a massage therapist?

Lisa Blanchard: Under.

**Madam Chair Lee:** You're not really touching in a treatment way.

Lisa Blanchard: Correct.

**Senator Hogan:** In terms of the bill if a CCA needed five years of experience, that is a legitimate concern because you don't have anyone that is going to have five years.

**Lisa Blanchard:** If somebody in that first group of certificate recipients would be August 1<sup>st</sup> of 2022.

**Senator Hogan:** That's a problem. That helps to clarify that.

**Lisa Blanchard:** Longevity could be an issue.

**Senator Hogan:** Do we know how many CCA's there are?

Lisa Blanchard: 100

**Madam Chair Lee:** Do you find the five years of experience, is it a challenge at all when your looking for chiropractors?

**Lisa Blanchard:** No, <sup>3</sup>/<sub>4</sub> of the chiropractors have more than five years of experience.

**Madam Chair Lee:** I'm pleased to see that you have the assistant on the board because dental assistants are not on the board that certifies them. I think it is appropriate for someone being regulated by the board, has a seat at the board.

**Lisa Blanchard:** You told us that two years ago.

**Madam Chair Lee:** Yes, and you remembered. Part of the challenge for someone in the position such as that is that the income is not going to make it a lifetime career. This could be a question for Mr. Anderson as well, if we looked at tinkering with the five-year experience requirement tell me how we would best do that.

**Lisa Blanchard:** The year requirement of certification could be reduced.

**Madam Chair Lee:** Would two seem like an unreasonable number or should it be one if you want to think about that.

**Lisa Blanchard:** I don't have good statistics because we just had our very first renewal. I can say that we sent out 129 renewal notices and 100 have renewed so we did have a fair share of drop on that.

**Madam Chair Lee:** What if we eliminated the time frame entirely?

Lisa Blanchard: For the assistant?

Madam Chair Lee: For either one. I'm asking I'm not telling.

Lisa Blanchard: I can't speak on that.

Madam Chair Lee: That other board bill that I mentioned would require training both for

board members and directors.

**Lisa Blanchard:** We all attended the Attorney Generals training.

**Madam Chair Lee:** And we appreciate that. It is an important component. We have had board members that currently and previously served on the board who do not know what their responsibilities are on the board and don't understand the separation between regulation and advocacy.

Kris Anderson: My comment might be to consider when the CCAA law was developed, those individuals that had been in that role for an extended period of time were grandfathered past the educational requirement and were required to take the certification exam. That experience may serve to bridge the gap in this first appointee and beyond that we should have people with five years' experience and beyond that. At least in this first appointment with the assistant, that experience might be considered as well.

**Madam Chair Lee:** Those with over 2000 hours of experience? Do you have any issue with the five-year requirement?

**Kris Anderson:** Perhaps five years is too steep of a requirement but at some level having that requirement speaks to the fact that we expect that individual to be committed to their role both professionally and on the board and because there is high attrition in that role, having no requirement at all may leave the licensing board in some difficult situations if they have the same type of attrition on their board with that member.

**Madam Chair Lee:** If we had a number fewer than five would that be something that would be okay or not.

**Kris Anderson:** We wouldn't oppose that.

**Madam Chair Lee:** We are talking limited training really and not actual treatment.

**Kris Anderson:** Their role in their job is limited relative to other professions that have assistants. The time commitment that is necessary to fulfill this role on the licensing board is really the big ask here so, I think having some level of time requirement would demonstrate their commitment to the profession and limit the attrition in that role as well.

Jake Schmitz: I happen to be the president of the other association, I really contemplated with my testimony last night whether I would add my thoughts to that exact question and I

had in there at minimum a six-month requirement and have a yearly rotation for that position because of the high turnover. I took it out because I didn't want to tell you guys what to do but that was comfortable to me.

**Madam Chair Lee:** How many members in your association and what is the name?

**Jake Schmitz:** The Association of Wellness Chiropractors and we currently have I believe 32 or 33 members spread very evenly across the state.

Madam Chair Lee: How many members do you have Mr. Anderson

**Kris Anderson:** 226 when this bill passed the floor in the house.

Madam Chair Lee closes the hearing on HB 1279.

#### 2019 SENATE STANDING COMMITTEE MINUTES

#### **Human Services Committee**

Red River Room, State Capitol

HB 1279 3/20/2019 Job #34030

☐ Subcommittee
☐ Conference Committee

| Committee Clerk: Justin Velez                       |  |
|---|--|
| Explanation or reason for introduction of bill/re   | solution:                                  |
| Relating to membership of the board of chiropractic | examiners; and to provide for application. |
| Minutes:  | No Attachments                             |

Madam Chair Lee opens the discussion on HB 1279.

**Senator K. Roers:** I think six months' experience and a two-year term for the chiropractic assistant, knowing that is such a high turnover role, I don't think a one-year term on a board would be too much turnover.

**Madam Chair Lee:** Two years' experience for the assistant.

**Senator K. Roers:** You think a five-year term on a job that people stay in for two years.

**Senator Anderson:** If somebody is no longer actively practicing, they are no longer eligible and then they have to replace them. The next person fills their unexpired term. I don't think that term is as significant and six months is okay with me, a year might be better.

Madam Chair Lee: How about one year?

Senator K. Roers: I can live with that.

**Senator Anderson:** We will go with one year and leave the term the same is that alright?

**Senator K. Roers:** They were saying it was five years it would 2022 before anybody. When was the first people 2017, so there would be people already eligible. I'm good with that.

**Madam Chair Lee:** The consumer member must have been a resident of the state for five years, are you ok with that? I'm happy with not be a spouse of a chiropractor as well. I wanted the Governor to be able to remove if we might look at that because it says the board may declare a vacancy if they are absent from two consecutive regular meetings. I would like to suggest that we might say that if the board recommends replacement of an inactive board member that the Governor would have the authority to declare the seat vacant.

**Senator Anderson:** I think you should leave that Governor replace thing to your bill and forget about putting it in everyone right now. One of the reasons I disagree with you about that is; if these 1,000 board members can be replaced by the Governor, can you imagine how many calls the Governor's office is going to get because somebody is upset with some board member on some board and the Governor is going to have to deal with that constantly about somebody want this or that board member replaced and my personal opinion is that the Governor likes the way it is now. If the Governor really wanted to get rid of somebody, he would get rid of them. The boards can always remove them for non-performance and the Governor could suggest that. I don't like the idea of the Governor being able to remove them because then everyone is going to want somebody removed just like the issue we had with the school board and being able to recall them every six months. It is a constant issue with people being upset so I disagree with that.

**Madam Chair Lee:** Senator Anderson gets to sit in that same chair five days a week so we heard in the other committee about the school boards and you couldn't be on it if you were a felon and if you had six months left on your term they couldn't throw you out.

**Senator Hogan:** The reason I like that is, "may" remove because it is permissive to the board to do. I like that.

**Madam Chair Lee:** Okay, I differ. So, the only thing we have to do is ask the intern to change the part on the certified chiropractic clinical assistance.

**Senator Anderson:** I'll move that we change that required service to one year. Seconded by Senator Hogan

**Madam Chair Lee:** That is really the only change then on page 2, line 2, changing the required service to one year. Also, attached to Lisa Blanchards testimony her amendment provides for an addition on page 1, line 11, and requires that each of the five appointed doctors of chiropractic come from different areas. No, because we don't want the districts so we aren't going to do that amendment.

#### **ROLL CALL VOTE TAKEN**

5 YEA, 0 NAY, 1 ABSENT MOTION CARRIES TO ADOPT AMENDMENT

Madam Chair Lee: Alright we have the amended bill before us.

Senator O. Larsen: I move a DO PASS, AS AMENDED Seconded by Senator Clemens

**ROLL CALL VOTE TAKEN** 

5 YEA, 0 NAY, 1 ABSENT MOTION CARRIES DO PASS, AS AMENDED Senator Anderson will carry HB 1279 to the floor. 19.0784.02001 Title.03000 Adopted by the Senate Human Services Committee

March 20, 2019

### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1279

Page 2, line 2, replace "five years" with "one year"

Renumber accordingly

3/2

Date: 3/20/19
Roll Call Vote #:

# 2019 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1279

| Do Pass Do Not Pass Without Committee Recommendation Rerefer to Appropriations    Do Pass Do Not Pass Without Committee Recommendation Rerefer to Appropriations   Reconsider   Do Not Pass Wester to Appropriations   | Senate <u>Human</u> | Services                                 |       |       |                         | Com      | mittee        |
|--|---------------------|--|-------|-------|-------------------------|----------|---------------|
| Senators   Yes   No   Senators   Yes   No   Sen. Hogan   Sen. Howard C. Anderson   Sen. Kristin Roers   Sen. Kristin Roers   Sen. Kathy Hogan   Sen. Kristin Roers   Sen. Kathy Hogan   Sen. Kristin Roers   Sen. Kathy Hogan   Sen. Kristin Roers   Sen. Kristin Roers   Sen. Kathy Hogan   Sen. Kristin Roers   Sen. Kristin Roe   |                     |  | □ Sul | ocomm | ittee                   |          |               |
| Do Pass Do Not Pass Without Committee Recommendation Rerefer to Appropriations    Do Pass Do Not Pass Without Committee Recommendation Rerefer to Appropriations   Reconsider   Do Not Pass Wester to Appropriations   | Amendment LC# or    | Description:                             | ise 2 | , Li. | re 2 replace "5 y       | ears "to | "2 4          |
| Senators Yes No Senators Yes No Senators Yes No Sen. Judy Lee  | Recommendation:     | ☐ Do Pass ☐ ☐ As Amended ☐ Place on Cons | Do No |       | ☐ Rerefer to Appropriat |          | dation        |
| Senators Sen. Judy Lee Sen. Oley Larsen Sen. Howard C. Anderson Sen. Kristin Roers  tal (Yes)  No Senators Sen. Kathy Hogan  Sen. Kathy Hogan  No Sen. Kathy | Other Actions:      | ☐ Reconsider                             |       |       |                         |          |               |
| Sen. Judy Lee  Sen. Oley Larsen  Sen. Howard C. Anderson  Sen. David Clemens  Sen. Kristin Roers  Atal (Yes)  No  No  No  No  No  No  No  No  No  N  |                     |  |       |       |                         |          | - No.         |
| Sen. Oley Larsen Sen. Howard C. Anderson Sen. David Clemens Sen. Kristin Roers  tal (Yes)  |                     | iators                                   |       | NO    |                         | 1000177  | NO            |
| Sen. Howard C. Anderson Sen. David Clemens Sen. Kristin Roers  tal (Yes)   |                     | n  |       |       | Cen. Ratify Flogari     | -        |               |
| tal (Yes) No O   |                     |  | ×     |       |                         |          |               |
| tal (Yes)  |                     |  | ×     |       |                         |          |               |
| sent   | Sen. Kristin Roe    | rs                                       |       | _     |                         |          | $\vdash$      |
| sent   |                     |  |       |       |                         |          | $\overline{}$ |
| sent   |                     |  |       |       |                         |          |               |
| sent   |                     |  |       |       |                         |          |               |
| sent   |                     |  | -     | _     |                         | -        | -             |
| sent   |                     |  |       |       |                         |          |               |
| sent   |                     |  |       |       |                         |          |               |
| sent   |                     |  |       |       |                         |          |               |
|  | otal (Yes) _        | 5  |       | No    | δδ                      |          |               |
| oor Assignment   | Absent              |  |       | 1     |                         |          |               |
|  | Floor Assignment    |  |       |       |                         |          |               |

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

Date: 3/26/19
Roll Call Vote #: 2

## 2019 SENATE STANDING COMMITTEE **ROLL CALL VOTES** BILL/RESOLUTION NO. 1279

| Senate Human      | Services       |        |        |   | Comr | nittee |
|-------------------|----------------|--------|--------|---|------|--------|
|                   |                | ☐ Sub  | ocommi | ttee  |      |        |
| Amendment LC# or  | Description:   |        |        |   |      |        |
| Recommendation:   | ☐ Adopt Amendn | Do Not |        | <ul><li>☐ Without Committee R</li><li>☐ Rerefer to Appropriat</li></ul> |      | ation  |
| Other Actions:    | ☐ Reconsider   |        |        |   |      |        |
|                   | Sen. O. Lacse  | Yes    | Se     | conded By <u>Sen. Cle</u> Senators                                      | Yes  | No     |
| Sen. Judy Lee     | 41010          | ×      | 110    | Sen. Kathy Hogan  | ×    |        |
| Sen. Oley Larser  | ı              |        |        |   |      |        |
| Sen. Howard C.    |                | X      |        |   |      |        |
| Sen. David Clem   |                | X      |        |   |      |        |
| Sen. Kristin Roei | 'S             |        |        |   |      |        |
|                   |                |        |        |   |      |        |
|                   |                |        |        |   |      |        |
|                   |                |        |        |   |      |        |
| Total (Yes) _     | 5              |        | No     | 0   |      |        |
| Absent            |                |        |        |   |      |        |
| Floor Assignment  | Sen. And       | dersor | 1      |   |      |        |

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

Module ID: s\_stcomrep\_49\_011 Carrier: Anderson Insert LC: 19.0784.02001 Title: 03000

s\_stcomrep\_49\_011

#### REPORT OF STANDING COMMITTEE

HB 1279, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1279 was placed on the Sixth order on the calendar.

Page 2, line 2, replace "five years" with "one year"

Renumber accordingly

**2019 TESTIMONY** 

HB 1279

#1 HB1279 1/28/19 Pg.1

#### **HB 1279**

### House Human Services Committee Testimony from Rep. Thomas Beadle

......

Good Morning Chairman Weisz and members of the House Human Services Committee. For the record, my name is Thomas Beadle, State Representative from District 27 in Fargo.

HB 1279 came to me at the request of a constituent who has a prominent business in my district. What this bill does is adjust the nomination structure for membership to the Board of Chiropractic Examiners so that one specific association isn't solely responsible for putting the members forward to the Governor for deliberation. The adjustment made in this bill would remove the lines that place the duty for nomination at the feet of the North Dakota Chiropractic Association and open it up so that any licensed member may be appointed by the Governor. Through conversations that I have had with legislative council as well as some of the chiropractors in attendance today, it seems that the reason for the current provision about the association putting the nominations forward is due to the association existing before the board and license structure itself.

For the comfort of the committee and the general public, this bill does not adjust anything currently in code regarding the qualifications of board members. 43-06-03 states that each member must be licensed for chiropractic medicine by the state of North Dakota, have been a resident of this state and practiced for at least 5 consecutive years before appointment, and remain a resident of the state and continue in active practice throughout their term in office.

Under statute, we have plenty of different licensing and examination boards listed, and they have a good variety for how they are appointed. I've included an email from Legislative Council about how many of the professional and occupational boards are appointed. Some may say that we need to have the association nominate the licensed professionals for board consideration due to the medical nature of the profession, but as you will see from this list, other professions with medical nature to them are appointed absent of a specific board putting the name forward. The Board of Medicine, Board of Pharmacy, Board of Podiatric Medicine, Board of Massage Therapy, Board of Physical Therapy, Board of Dental Examiners and the State Board of Psychologist Examiners are a few examples of some of the licensing boards that Do Not have a specific professional association acting as a gatekeeper.

When code is absent of how the nominations are put forward, current practice is for the Governor's office to announce the upcoming vacancy and solicit nominations through their Boards and Commissions portal on the Governor's website. Notice is also given out by the boards themselves to their members to make them aware. When an application is submitted, letters of recommendation are included and it is not uncommon for associations and prominent people to weigh in to give the Governor's office input.

I believe that this change is warranted. There are more than one professional association operating in North Dakota made up of licensed chiropractors, but only one of them has any input into the board

#1 HB 1279 1/28/19 PS. 2

process. Clearly there is a process in place to make sure that the profession and the consumers are protected and that the board is capable of doing the job. This is a simple change. While the current board and some members may be opposed to this change, I believe their animosity is due more to the presence of a rival association leading this effort, and less a result of actual fears that could come to fruition from changing this nominating process. There are some licensees who will be testifying after me that can explain in more detail their reasons for the change.

I am happy to answer any questions the committee may have. Thank you, Mr. Chairman.

Representative Beadle-

Per your request, we have reviewed the occupational and professional board laws and pulled together a list of executive occupational and professional boards and information regarding gubernatorial appointments from nominees put forward by professional organizations:

| NDCC Section   | Board   | Excerpt  |  |  |
|----------------|---|--|--|--|
| § 4.1-26-02    | Milk Marketing Board  | The milk marketing board consists of:  a. A dairy farmer appointed by the governor from a list of two names submitted by the milk producers association of North Dakota;  b. A processor appointed by the governor from a list of two names submitted by the North Dakota dairy industries association;  c. A retailer appointed by the governor from a list of two names submitted by the North Dakota grocers association; |  |  |
| § 43-02.2-03   | State Board of Accountancy  | A vacancy on the board must be filled by appointment by the governor from a list of at least three nominees submitted by the appropriate nominating committee.   |  |  |
| § 43-04-04     | Board of Barber Examiners   | Each appointment must be made from a list of five names submitted to the governor by the state barber association.   |  |  |
| § 43-06-04     | State Board of Chiropractic Examiners                                     | When a vacancy occurs the North Dakota chiropractic association shall nominate, to the governor three qualified persons for each vacancy.  |  |  |
| § 43- 19. 1-03 | State Board of Registration for Professional Engineers and Land Surveyors | The board members who are professional engineers must be appointed by the governor from among a list of nominees submitted to the governor by the North Dakota society of professional engineers The governor shall appoint the professional land surveyor member of the board from a list of nominees submitted by the North Dakota society of professional land surveyors.   |  |  |
| § 43-23.3-02   | North Dakota Real Estate Appraiser<br>Qualifications and Ethics Board     | The governor shall appoint the financial industry representative from a list of qualified individuals submitted by the North Dakota bankers associations, the credit union association of the Dakotas, and the North Dakota farm credit system associations. Each of these entities may submit two names of candidates to the governor.  |  |  |
| § 43-39-02     | North Dakota Board of Athletic<br>Trainers                                | The members, other than the layperson, must be appointed from lists submitted to the governor by the North Dakota athletic trainers association for those members who are athletic trainers and from the North Dakota medical association for the member who is a physician.   |  |  |
| § 43-42-02     | State Board of Respiratory Care   | Four members must be respiratory therapists, chosen from a list of eight respiratory therapists supplied to the governor by the North Dakota society for respiratory care. One member must be a physician chosen from a list of two physicians supplied to the governor by the North Dakota medical association One member must be a registered polysomnographic technologist  |  |  |

#1 HB 1279 1/28/19 1/9:4

|              |   | chosen from a list of candidates recommended to the governor by the association of polysomnographic technologists.   |
|--------------|---|--|
| § 43-48-05   | North Dakota Board of Clinical<br>Laboratory Practice | The board must be composed of [t]he following laboratory persons, whose names may be included on a list of such persons qualified to serve submitted to the governor by the North Dakota society for medical technology or other interested persons, such list to contain at least three names for each vacancy: |
|              |   | <ol> <li>One administrative nonphysician clinical laboratory director;</li> <li>One clinical laboratory scientist; and</li> <li>One clinical laboratory technician.</li> </ol>   |
| § 61-04.1-04 | North Dakota Atmospheric Resource<br>Board            | The governor shall initially appoint one board member for each of the seven districts from a list of three candidates given to the governor by weather modification authorities in each district and:  |
|              |   | <ol> <li>When the term of office of any board member from any district is about to expire.</li> <li>When a vacancy has occurred, or is about to occur, in the term of office of a board member from any district for any reason other than expiration of term of office.</li> </ol>                              |

#### Boards with open applications and nomination methods

| NDCC Section   | Board  |  |  |  |  |  |
|--|--|--|--|--|--|--|
| § 6-01-03  | State Banking Board                                    |  |  |  |  |  |
| § 6-01-03 State Credit Union Board                   |  |  |  |  |  |  |
| § 15.1-13-02 Education Standards and Practices Board |  |  |  |  |  |  |
| § 43-01-02   | Abstractors' Board of Examiners                        |  |  |  |  |  |
| § 43-03-03   | State Board of Architecture and Landscape Architecture |  |  |  |  |  |
| § 43-05-03   | North Dakota Board of Podiatric Medicine               |  |  |  |  |  |
| § 43-09-02   | State Electrical Board                                 |  |  |  |  |  |
| § 43-10-02 State Board of Funeral Service            |  |  |  |  |  |  |
| § 43-11-03 State Board of Cosmetology                |  |  |  |  |  |  |
| § 43-12.1-05 North Dakota Board of Nursing           |  |  |  |  |  |  |
| § 43-13-03   | North Dakota State Board of Optometry                  |  |  |  |  |  |
| § 43-15-03   | State Board of Pharmacy                                |  |  |  |  |  |
| § 43-17-03   | North Dakota Board of Medicine                         |  |  |  |  |  |
| § 43-18-02 State Board of Plumbing                   |  |  |  |  |  |  |
| § 43-23-01   | State Real Estate Commission                           |  |  |  |  |  |
| § 43-25-05   | North Dakota Board of Massage Therapy                  |  |  |  |  |  |

| § 43-26. 1-02                                       | North Dakota Board of Physical Therapy                                |  |  |  |  |  |
|---|---|--|--|--|--|--|
| § 43-28-03  | State Board of Dental Examiners                                       |  |  |  |  |  |
| 8 43-29-02 Board of Veterinary Medical Examiners    |   |  |  |  |  |  |
| § 43-30-03 Private Investigative and Security Board |   |  |  |  |  |  |
| § 43-32-02  | North Dakota State Board of Psychologist Examiners                    |  |  |  |  |  |
| § 43-33-15  | Board of Hearing Aid Specialists                                      |  |  |  |  |  |
| § 43-34-02  | North Dakota State Board of Examiners for Nursing Home Administrators |  |  |  |  |  |
| § 43-35-03  | North Dakota Board of Water Well Contractors                          |  |  |  |  |  |
| § 43-36-02  | State Board of Registration for Professional Soil Classifiers         |  |  |  |  |  |
| § 43-37-05  | State Board of Examiners on Audiology and Speech-Language Pathology   |  |  |  |  |  |
| § 43-40-04  | Board of Occupational Therapy Practice                                |  |  |  |  |  |
| § 43-41-08  | North Dakota Board of Social Work Examiners                           |  |  |  |  |  |
| § 43-44-02  | Board of Dietetic Practice  |  |  |  |  |  |
| § 43-45-02  | Board of Addiction Counseling Examiners                               |  |  |  |  |  |
| § 43-47-02  | Board of Counselor Examiners  |  |  |  |  |  |
| § 43-49-02  | North Dakota Board of Reflexology                                     |  |  |  |  |  |
| § 43-53-04  | North Dakota Marriage and Family Therapy Licensure Board              |  |  |  |  |  |
| § 43-57-02  | State Board of Integrative Health Care                                |  |  |  |  |  |
| § 43-62-04  | North Dakota Medical Imaging and Radiation Therapy Board              |  |  |  |  |  |

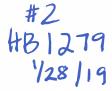
Best regards-

Jenn

Jennifer Clark

Counsel

ND Legislative Council



Dr. Steve Nagel, Doctor of Chiropractic, BSN, owner of 180 Family Chiropractic and 180 Weight Loss in Mandan, ND. Member of Young Republicans of North Dakota.

120 Lake Ave, Bismarck, ND 58504 drsteve@180healthnow.com 701-214-7846

My name is Dr. Steve Nagel and I am for HB 1279. I stand before you today representing myself as part of the silenced majority of Doctors of Chiropractic in ND. I have small town roots in North Dakota, attended the University of Mary where I obtained a 4 year bachelors of science in nursing from University Of Mary. After working in an ICU setting for 2 years. I left one honorable profession for another one—to become a Chiropractor.

I say silenced majority because I have chosen not to maintain my NDCA membership, as have over half the licensed chiropractors in the state, as I understand. It wasn't always that way. When I moved back to North Dakota to practice, I, naturally, was invited to join the NDCA for support, a voice, and inclusion. I did not realize that I would find very little support for a more wellness directed approach to Chiropractic and health care there. So naturally, after what I recall to be about a year, I declined future memberships.

As I noticed political changes amongst our laws and rules, I began to pay attention. I very soon realized that the board and the NDCA often appear as one of the same. Ironically, later I found out that many of my colleagues also thought they were one-in-the-same entity with different wings.

- 1. Board meetings and NDCA meetings are often in the same location on the same weekend. This has created an intertwined relationship between the state board and the NDCA.
- 2. Election of board members is though and by the NDCA. To have a vote, you have to be a member of the NDCA.
- 3. Because of the election and NDCA recommendation structure, the composition of the board is all-but guaranteed to be all NDCA members. All the rules and regulations affecting all chiropractors in our state are voted on by NDCA members only. This excludes the entire population of doctors who do not align with the NDCA. This either intentionally or unintentionally discriminates against non-members, who may choose to practice a different way. This effectively makes the state board entirely controlled by the NDCA.
- 4. On Thursday of last week, an NDCA legislative social was held after a board meeting (See attached email). This meeting was listed on the NDBCE meeting agenda as a "potential quorum". Interested in attending, since legislators would be there and a quorum was possible, I emailed the NDCA to inquire if NON-NDCA members would be allowed to attend. You can read the email where it clearly states that this meeting was for NDCA members only, but that I could pay my dues and then would be allowed in. I was not allowed to attend, therefore I do not know if the board meeting occurred or what transpired during the Board meeting. What I do know is that I was excluded based upon my non-membership to a private association.
- 5. https://apps.nd.gov/sos/ndpmn/meetings/searchMeetings.htm

#2 HB 1279 128/19 PG·2

By leaving the law as it is currently written, the NDCA has a direct line to regulate the chiropractic profession in this state. By adopting the proposed HB 1279 into law, every licensed chiropractor in ND get equal rights to have a voice in regulation of the profession and stop a convoluted connection between a private association and a governmental state board.

Please vote yes on HB 1279.

I'd be glad to answer any questions and thanks for your time.

Dr. Steve Nagel

#2 #6 1279 428 19.3

From: <info@ndca.net>

To: "Dr. Steve Nagel" <drsteve@180healthnow.com>

Date: Thu, 17 Jan 2019 13:29:56 -0600

Subject: RE: legislative social

Hello Dr. Nagel!

Thanks for your inquiry about next week's NDCA legislative social.

It is an event held for NDCA members. You may join the association online at <a href="www.ndca.net">www.ndca.net</a> or fill out the attached form.

However, our seminars are open to the public for registration. Our winter seminar is next weekend as well, Friday, Jan. 25 (8:30am-4:30pm) and Saturday (8am-11am). Breakfast is included on both days. The topic for the seminar is 10CE: Differential Diagnosis & Rehabilitation of Posture & Balance and Differential Diagnosis of Neuromusculoskeletal Conditions. Registration form attached or register online at <a href="https://www.ndca.net">www.ndca.net</a>. This class also counts towards University of Bridgeport's Orthopedic Diplomate Program if you would like to participate in that.

#### Dr. Steve Weiniger's presentation:

Differential Diagnosis & Rehabilitation of Posture & Balance with Motor Control Exercise
Attendees learn to assess and rehab accurate control of posture and balance for pain control, sports
performance and successful aging using motor control exercise. These StrongPosture® rehab
protocols retrain posture subtleties towards symmetry for more accurate control and stabilization. It's a
framework of short duration encounters that synergizes with spinal manipulation by systematically
tailoring subtle exercises to each individual's unique motion patterns, engaging people as they experience
perceptible differences, in turn boosting compliance, referrals and retention.

#### Dr. James Lehman:

The Differential Diagnosis of Neuromusculoskeletal Conditions will focus on evaluation and management of spinal cord injuries, statin myopathy, and chronic neuromusculoskeletal conditions.

Sincerely, Chilly Goodman NDCA Administrative Manager info@ndca.net 701.934.2682

----Original Message-----

From: "Dr. Steve Nagel" <a href="mailto:steve@180healthnow.com">drsteve@180healthnow.com</a>

Sent: Thursday, January 17, 2019 10:33am

To: info@ndca.net Subject: legislative social

Hi Chilly!

Hey, I haven't been part of the NDCA for a while now. I was talking to a colleague and he mentioned going to the legislative social on the 24th. Sounds like a cool event. I live in Bismarck anyhow, but I'm not part of the NDCA. Is NDCA membership required to attend?

Happy Thursday,

Dr. Steve Nagel, DC, BSN 180 Health Solutions 2008 Twin City Dr. Mandan, ND 58554

#3 #3 1279 1/28/19 pg. 1

Dr. Becky Perry-Domres, DC

300 3<sup>rd</sup> Ave SW Ste F

Minot, ND 58701

hidrbecky@gmail.com

701.721.9616

I own Premier Chiropractic in Minot I am married with 3 children. . I was appointed to a Peer Review Committee in 2018 by the president of the state board. I am a current NDCA member as well as a member of other chiropractic associations.

I am a member of the NDCA and I am in favor of HB 1279. The law as currently stated is not equal to all chiropractors in our state.

Less than half of chiropractors in this state are NDCA members. There are 493 chiropractic license holders in North Dakota (see attached President's 2018 report). Currently, the NDCA has 226 members. Some of those may be retirees and/or those not in active practice (see attached retiree new member screenshot as well as email). What this means is the NDCA represents 45% of the license holders in North Dakota, meaning 55% of license holders in this state are not represented with how the governing of our profession takes place. Only those with that specific membership have a chance to vote for who becomes nominated to the governor for a state board position.

It appears the NDCA changed their bylaws to allow an open session before their annual closed-to-the-public meeting. The argument is this will give nonmembers an opportunity to nominate themselves or others before voting, but this does not solve the problem at hand because the voting happens by their members only.

What is the likelihood a non-member showing up before an annual closed association meeting is going to be given an equal and fair opportunity coming into an unfamiliar territory of an already established group of members? What is the likelihood this individual or individuals would be voted for and ultimately nominated (no matter their qualifications) when up against members and/or friends of people in the association? Members running for a nomination would be 'familiar faces' to other members and would be at an advantage. This means a private trade association has the power to make the selections as being the body voting on the nominations. The stranger walking in could be more qualified, more experienced, a better leader, yet will be lucky to get any votes, especially a majority of votes. It is an outsider coming in to an established club. It may work, but I can't see many people even attempting to do something like that, so what other options do they have? 1. Do nothing and never have a voice. 2. Join the association even if don't want to just to try to eventually have a chance. Professionals of any state and any profession should not be required to pay for a membership to become a member of a group just to cast a vote for who represents their profession on a state board. There is not a voting process for jobs in the real world. As manager of the state, the governor should be able to make a selection without a voting process; nominations from an association as to who the governor gets to select from is unnecessary and unbalanced to all chiropractors, patients, and citizens in ND.

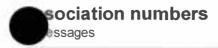
Even if the majority of ND chiropractors were members of the NDCA, I would still feel the passing of HB1279 is necessary. However, the majority of ND chiropractors are not NDCA members. Therefore,

#3 HB 1279 128119 sa Pg. 2

there should be no opposition as to the passing of HB 1279. In what other election or situation does a minority have unchallengeable control over the majority?

Thank you. I appreciate the opportunity to be able to speak here today. I'm happy to answer any questions you might have.





info@ndca.net <info@ndca.net>

Tue, Jan 15, 2019 at 1:37 PM

To: Becky Perry-Domres <hidrbecky@gmail.com>
Cc: Andrea Burckhard <ndca.nw.disdir@gmail.com>, Erica Jorde <ndca.nw.adisdir@gmail.com>, Mike Kelly <ndca.sec.tres@gmail.com>

Hello Dr. Perry-Domres,

Thanks for your inquiry. There are currently 226 members of the state association. This includes all CURRENT members for 2018 bc that membership expires at the end of this month.

We would love to have you renew your membership for 2019!

Please find a renewal application attached to this email. You may also renew online at <a href="www.ndca.net">www.ndca.net</a>. If you have any questions, please do not hesitate to contact me at <a href="mailto:info@ndca.net">info@ndca.net</a> or at the NDCA phone at 701.934.2682. You may also contact Dr. Mike Kelly as he is in Minot too!

Additionally, Dr. Kelly is chairing a membership committee to take a look at our membership levels and perhaps restructure. If you are interested in participating on that committee, please contact him at ndca.sec.tres@gmail.com.

Have a great day!
Chilly Goodman
ministrative Manager
.934.2682
info@ndca.net



2019 Membership Benefits & Application.pdf 280K

**Becky Perry-Domres** <hidrbecky@gmail.com>
To: "Dr. Jake Schmitz" <drjakedc4u@gmail.com>

Thu, Jan 17, 2019 at 10:30 AM

[Quoted text hidden]



2019 Membership Benefits & Application.pdf 280K



## NORTH DAKOTA STATE BOARD OF CHIROPRACTIC EXAMINERS

#3 HB 1279 1/28/19 19.4

P.O. Box 185 · Grafton, ND 58237

Phone: (701) 213-0476 · Fax: (701) 352-2258 · Email: contact@ndsbce.org · Web: www.ndsbce.org

#### North Dakota State Board of Chiropractic Examiners Report 2018

The mission of the NDSBCE is to protect the public's health, welfare and safety through effective licensure, investigation and enforcement of the properly updated statutes and rules governing the practice of chiropractic to ensure a standard of competent and ethical practice in all areas of the profession.

The Board held their election of officers at the January 2018 meeting. Current officers are: President, Dr. Michael Remmick (term ends 8/31/2022); Vice President, Dr. Steven Pederson (8/31/2020); Secretary/Treasurer, Dr. Eric Froehling (8/31/2019); other members of the board are Dr. Dion Ficek (8/31/2018) and Dr. Kent Yohe (8/31/2021).

The NDSBCE held 3 in person board meetings and 11 conference call meetings in 2017. Board meeting information can be found on the board's website: <a href="https://www.ndsbce.org">www.ndsbce.org</a>.

In 2017, 18 formal complaints were received from insurance companies, consumers, and other chiropractors. 13 of those complaints were for advertising violations of our current Practice Act and Administrative Rules.

All licensees received an email or notice from the Board in February concerning the need for review and evaluation of their websites and social media postings. Concerns include, but not limited to, giveaways, dual fee promotions, advertising campaigns, inducements, or any other activity that may be considered in violation of our Laws and/or Administrative Rules. Remember, as license holders, you are responsible for all content in all of your professional activities whether this activity is performed by yourself, corporations whom you contract with, or other entities you may use for your professional presence whether in hard copy or social media.

This board does not actively pursue violations of the license holders. However, following a formal signed complaint, due process requires the board to ask for a response to the complaint by the licensee(s) and then, in review of the complaint and response, determine if there has been a violation of the Laws and/or Administrative Rules. There has been concern voiced that only chiropractors were filing these complaints. Additionally, the older license holders must be the individuals filing these complaints against the younger/newer practitioners. This is not and has not been the case.

The Board will continue to utilize mass emails for notifications, news, and reminders to the licensees throughout the year. Our intention is not to spam or inundate you with trivial information. We intend to keep these items to frequently asked questions and important notice or deadline reminders.

The law for Certified Chiropractic Clinical Assistants (CCCA) took effect on August 1, 2017. As with all new things, there has been confusion, questions, and frustration. We have done our best to answer and clarify the information for all. There has also been excellent compliance. We thank you for your due diligence in making sure your offices are properly certifying your staff.

#3 HB 1279 1/28/19 195

The Board would like to thank you for your compliance of Section 10-30-13 of the ND Century Code pertaining to Professional Organizations-Annual Reports-Renewals that we made you aware of in 2017 in various notices. Providing a copy of your annual report to the Board is an ongoing requirement. These reports are on file in the board office and have not and will not be reviewed by board members. Any request of this information will be made to the board office and appropriately shared, when properly requested.

Lisa Blanchard continues in the Executive Director's position for the Board. She was instrumental in the development and continued updating of the Board's website. For example, as of March 1, 2018, we now require all license applicants to successfully complete the online Jurisprudence Examination. Additionally, the completion of this examination, by a licensee following a formal or informal sanction issued to them by the Board, has been and will continue to be a consistent requirement.

The Board continues to be active on a national level with participation in regulatory and licensing activities. We participate in the development of the practical Part IV National Board examination in addition to the administering of that same exam at different testing sites. We continue to serve as delegates to the Federation of Chiropractic Licensing Boards and the National Board of Chiropractic Examiners and have input on regulatory policy as well as educational training required for Board activity and responsibilities. The education gained is valuable in understanding the regulatory challenges other states are experiencing.

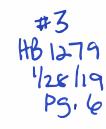
There are currently 436 active license holders and 57 inactive license holders in our state. Additionally, there are 76 Certified Chiropractic Clinical Assistants with an additional 33 pending applicants.

We encourage you to welcome and get to know the following new doctors (since April 2017) to our state:

Dr. Riley Knoll Dr. Jared Mann Dr. Catrina Lindvig Dr. Neville Lambourne Dr. Cameron Schroeder Dr. Kimberly Weber Dr. Benjamin Whitten Dr. Kent Maier Dr. Charlsey Johnson Dr. Matthew Chuppe Dr. Timothy Corrigan Dr. Jamison Englund Dr. Thomas Keller Dr. Curtis Weinstein Dr. Kristal Weinstein Dr. Chase Enget Dr. Robert Kleinfeld Dr. Jenna Smaby Dr. Kendra Styron Dr. Chantel Pokorny Dr. Matthew Gilbertson Dr. Gregory Lowenberg Dr. Joseph Grausgruber Dr. Brett Wegleitner Dr. Christopher Pischel Dr. Brittany Dusek Dr. Allison Klug Dr. Amy Wolf Dr. Amanda Johnson Dr. Kevin Russeau Dr. Michael Koehn

Respectfully submitted,

Dr. Michael A. Remmick, President NDSBCE





#### 2019 Membership Dues

#### Membership is active January 1, 2019- December 31, 2019

|  | Full Dues           | Discounted* |
|--|---------------------|-------------|
| 1. NEW MEMBER  Recent graduate & starting first full year of licensure in ND.  Complimentary annual dues, CE seminars and annual banquet | \$ 0<br>ticket (1). | \$ 0        |
| 2. SECOND YEAR MEMBER – complimentary CE seminars  | \$ 200              | \$ 190      |
| 3. THIRD YEAR MEMBER   | \$ 400              | \$ 380      |
| 4. FULL MEMBER   | \$ 600              | \$ 570      |
| 5. MARRIED MEMBER  | \$ 900              | \$ 855      |
| 5. RETIRED MEMBER  | \$ 100              | \$ 95       |
| 6. STUDENT MEMBER -Enrolled in Chiropractic College.   | \$ 0                | \$ 0        |
| 7. HONORARY LIFE MEMBER  | \$ 0                | \$0         |

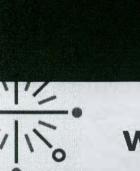
\*A 5% discount on all dues received by the Secretary/Treasurer and paid in full by December 31, 2018.

**Please Note:** Our By-Laws state that membership fees are due January 1, and become delinquent February 1. In addition, for income tax year 2019, 13% of your NDCA dues are not allowable as a tax deductible business expense, as this percentage of your dues will go towards political expenses in 2019.

Questions about dues amount, membership status or a payment plan?

Contact NDCA Secretary/Treasurer: Dr. Mike Kelly: <a href="mailto:ndca.sec.tres@gmail.com">ndca.sec.tres@gmail.com</a>

#3 #8 1279 12×119 P9.7



WELCOME BACK RETIRED MEMBER

### HEIDI HEIM SOUTH

North Dakota Chiropractic Association, Inc

Happy to welcome back Heidi Heim to the NDCA family! Dr. Heim is retired with an active license and from the South Central district.

Even in retirement - membership to the state association is crucial for the profession!

AUG 17, 2018





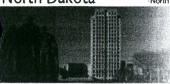




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### North Dakota Public Meeting Notices



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SECRETARY OF STATE

**View Meeting** 

Meeting Details

Entity: ND State Board of Chiropractic Examiners

Governing Body: ND State Board of Chiropractic Examiners

Meeting Title: ND Chiropractic Association Legislative Social

Meeting Date and Time: 1/24/2019 5:30 PM

Meeting Type: Regular

Agenda

The members and staff of the ND Board of Chiropractic Examiners are invited to attend the Legislative Social hosted by the North Dakota Chiropractic Association (NDCA) on Thursday, January 24, 2019. This is a social gathering and not an official meeting. However, there is the potential for a quorum of the board members to attend and for questions or business of the board to be discussed, we are posting as a meeting. The attendance of the board members is not required and therefore a quorum may not occur.

This is an invited event hosted by the NDCA and therefore we request that any public interested in the event contact the Administrative Manager of the NDCA for further information. (701) 934-2682 or <a href="mailto:info@ndca.net">info@ndca.net</a>

#### Attachments

No attachments found.

This meeting was posted on: 1/16/2019 1:14 PM
This meeting was lasted edited on: 1/16/2019 1:25 PM

\_\_\_

Meeting Location

Terra Nomad 514 E Main Ave. Bismarck, ND 58501

Map this!

**Contact Information** 

Lisa Blanchard contact@ndsbce.org 701-213-0476

**Options** 

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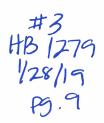
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🔒 We use Secure Sockets Layer (SSL) encryption technology to ensure your information is secure and protected.

♬ Will open a new window (pop-up).

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ND Chiropractic Association
Proposed amendments for HB 1279

Page 1, line 10, remove "." and insert immediately thereafter "except that each fifth year there must be two new board members appointed, one of whom is a Doctor of Chiropractic and the other a certified chiropractic clinical assistant and two years later two new board members must be appointed, one of whom is a doctor of chiropractic, and one of whom is a consumer member. No member may serve for more than two (2) consecutive five (5) year terms. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist. All"

Renumber accordingly

#### 43-06-04. Board of chiropractic examiners - Members - Term of office.

Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold office for a term of five years and until the member's successor is appointed and qualified. The terms of office of the members of the board must be so arranged that one term and only one expires on the thirty-first day of August of each year- except that each fifth year there must be two new board members appointed, one of whom is a Doctor of Chiropractic and the other a certified chiropractic clinical assistant and two years later two new board members must be appointed, one of whom is a doctor of chiropractic, and one of whom is a consumer member. No member may serve for more than two (2) consecutive five (5) year terms. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist. All vacancies on the board must be filled by appointment by the governor. When a vacancy occurs on the board by expiration of the term, death, or resignation of a member, or removal for other cause, the North Dakota chiropractic association shall nominate, by procedure adopted in the bylaws of said association, to the governor three qualified persons for each vacancy. The governor shall appoint a member to fill the vacancy on the board from the three nominees.

#### Add Section 2

**SECTION 2. AMENDMENT.** Section 43-46-03 of the North Dakota Century code is amended and reenacted as follows:

Strike through 43-06-03

43-06-03. State board of chiropractic examiners - Members - Appointment - Qualifications. The state board of chiropractic examiners shall consist of five members appointed by the governor. Each person appointed must:

1. Have a license to practice chiropractic in North Dakota.

#3 HB 1279 Y28/19 Pg.10

- 2. Have been a resident of this state and have practiced chiropractic in this state for at least five—consecutive years immediately before appointment to the board.
- 3. Remain a resident of this state and continue in active practice in this state during the term of office.

#### and replace with the following

**43-06-03.** State board of chiropractic examiners - Members - Appointment - Qualifications.

The state board of chiropractic examiners shall consist of seven members appointed by the governor. The membership of the board must include five (5) Doctors of Chiropractic members, one (1) Certified Chiropractic Clinical Assistant (CCCA) member and one consumer member.

- 1. Each Doctor of Chiropractic member appointed to the board must:
  - a. Have a license to practice chiropractic in North Dakota.
  - b. Have been a resident of this state and have practiced chiropractic in this state for at least five consecutive years immediately before appointment to the board.
  - c. Remain a resident of this state and continue in active practice in this state during the term of office.
  - d. Be a licensee in good standing and must not be the subject investigation by the board for laws or rules violations under this chapter.
- 2. An individual may not be appointed as a CCCA member of the board unless that individual:
  - a. Is a licensed and registered certified chiropractic clinical assistant in accordance with chapter 43-06-16.1; and
  - b. Is actively engaged in the practice of certified clinical assistant in this state at least five years immediately preceding the certified clinical assistant's appointment.
- 3. An individual may not be appointed as the consumer member of the board unless that individual:
  - <u>a.</u> has been a resident of North Dakota for five years immediately preceding appointment;
  - b. Has no personal or family financial relationship with the chiropractic profession; and c. Is not a Doctor of Chiropractic, a certified clinical chiropractic assistant, a licensed healthcare professional, or a spouse of an individual engaged in any of those occupations.
- 4. The certified clinical assistant and consumer member of the board shall exercise full voting privileges in all areas except the certified clinical assistant may not participate in the clinical examination of the chiropractor for licensure and the consumer member may not participate in the clinical examination of chiropractors or certified chiropractic clinical assistants for licensure.

#4 #B 1279 1/28/19 Pg. 1

Dr. Jake Schmitz 4233 44<sup>th</sup> Avenue South, Fargo, ND 58104 701-770-0185 drjakedc4u@gmail.com

- Licensed Chiropractor in ND (and previously NC)
- Owner of Freedom Chiropractic Health Center in Fargo
- Owner of Freedom Chiropractic Heath Center in Grand Forks
- Lifetime Member of the International Chiropractic Association
- Founder and president of the Association of Wellness Chiropractors

- Business co-owner of several entities in ND involving land, minerals, water and real estate
- VP of PTA at Kennedy Elementary School in Fargo, ND
- Went to school at Williston State College,
   Dickinson State University, Northwestern Health
   Sciences University and currently finishing
   Masters at University of Western States
- Married with 2 children

Chairman Weisz, representatives of the Human Services Committee,

Hello and thank you for the opportunity to speak to you today. My name is Dr. Jake Schmitz and I am here today representing myself as a licensed chiropractor in the state of North Dakota (ND). I have been a practicing chiropractor in Fargo for what will be 7 years next week.

I support the proposed bill (B 1279, because it will grant equal representation for all chiropractors under the law. Currently NDCC 43-06-04 only allows nominations to occur through the North Dakota Chiropractic Association (NDCA). Of these nominations, a selection is made to the North Dakota State Board of Chiropractic Examiners (NDSBCE). A state board which is responsible for governing all licensed chiropractors in North Dakota, not just members of the NDCA.

A private association should not be able to nominate applicants to serve on a state board. Just as an association membership does not make one chiropractor more qualified than another to serve on a state board. However, in this state that exact precedence has been set (see attached 2017 NDCA bylaws and the 2018 revisions).

All licensed chiropractors should have an equal opportunity. It should come down to leadership skills and if a candidate can govern equally and fairly. Ultimately, it should be the governor's choice to choose among all applicants, not just from a select few nominees voted on by only one organization.

#4 #8 1279 1/28/19 ensed, Pg·2

A chiropractor does not need to be in or a nominee of any association to get a degree, become licensed, open a clinic, or treat patients; yet in order for the governor to see their application, they have to be nominated by a private association, which does not represent all chiropractors in our state.

All actively licensed professionals are equal based on their established degree and license. Being a member, non-member, or nominee of an association should be irrelevant when it comes to applying for a position on the state board. It should not come down to a popular vote within one organization, especially for a position which is supposed to oversee all chiropractors in the state.

To reference other doctorate level professional state boards in ND:

- For the ND Board of Medicine, the ND Dental Board, the ND State Board of Optometry, ND Board of Integrative Healthcare, ND Board of Physical Therapy and the ND Board of Pharmacy, there is no mention of or requirement to be nominated by an association in order to apply or serve on its corresponding state board. In fact, all of these boards have outside representation to keep it more objective.
- All of these state board members regulating doctorate level licensed professionals in ND, were all are appointed by the governor without a nomination process.

HB 1279 does not take away the NDCA's or its members' rights to apply and ultimately serve on the state board; it gives that right equally to all ND chiropractors by removing the NDCA from the selection process. I support HB 1279 and I hope you will as well.

Thank you for your time. I greatly appreciate the opportunity to speak here today. I will welcome any questions you may have.

Maximum blessings,

Dr. Jake Schmitz

#9 128/19 19:3

The current version of the NDCA By-Laws contains the following section related to the ND State Board of Chiropractic Examiners under Article X Miscellaneous Provisions, Section 6. State Board of Examiners.

#### Section 6. State Board of Examiners

Candidates for appointment to the State Board of Chiropractic Examiners shall be selected during the business session of the Corporation at its annual Convention. All candidates shall be a member of the NDCA. Secret ballots shall be cast in three separate elections. The three (3) doctors elected with the most votes in each election shall have their name submitted in alphabetical order, to the Governor of North Dakota. Each of the five districts of the State shall be considered in rotation and no D.C. may serve for more than two (2) consecutive five (5) year terms.

The NDCA is proposing to change (changes in italics) this section of the By-Laws to read as follows:

#### Section 6. State Board of Examiners

Candidates for appointment to the State Board of Chiropractic Examiners shall be selected during a public meeting of chiropractors licensed in the State of North Dakota held just prior to the business session of the Corporation at its annual Convention. All candidates must meet qualifications outlined in North Dakota Century Code Section 43-06-03. Secret ballots shall be cast in three separate elections. The three (3) doctors elected with the most votes in each election shall have their name submitted in alphabetical order, to the Governor of North Dakota. Each of the five districts of the State shall be considered in rotation and no D.C. may serve for more than two (2) consecutive five (5) year terms.

#5 #B 1279 1/28/19 1/9.1

## Testimony House Bill 1279 Dr. Eric Seamands North Dakota Chiropractic Association

Representative Weisz and members of the House Human Services Committee, my name is Dr. Eric Seamands. I am a local chiropractor, Southwest District Director for the North Dakota Chiropractic Association, and an employee of Sanford Health in Bismarck.

I am here today to discuss House Bill 1279 regarding the selection process for the North Dakota Chiropractic Board of Examiners. This bill removes the following portion from the selection process: "When a vacancy occurs on the board by expiration of the term, death, or resignation of a member, or removal for other cause, the North Dakota chiropractic association shall nominate, by procedure adopted in the bylaws of said association, to the governor three qualified persons for each vacancy. The governor shall appoint a member to fill the vacancy on the board from the three nominees."

The by-laws of our association and the current process already allows for every chiropractor in North Dakota to be eligible and vote for the names that are submitted to the governor and is outlined below:



"Section 6. State Board of Examiners Candidates for appointment to the State Board of Chiropractic Examiners shall be selected during a public meeting of chiropractors licensed in the State of North Dakota held just prior the business session of the Corporation at its annual Convention. All candidates must meet qualifications outlined in North Dakota Century Code Section 43-06-03. Secret ballots shall be cast in three separate elections. The three (3) doctors elected with the most votes in each election shall have their name submitted in alphabetical order, to the Governor of North Dakota. Each of the five districts of the State shall be considered in rotation and no D.C. may serve for more than two (2) consecutive five (5) year terms."

- Adopting Bill 1279 eliminates a layer of protection for the people of North Dakota, by removing a process that helps ensure that a qualified candidate is selected by the Governor of North Dakota.
- The bill would put the onus entirely on the Governor and possibly create a process influenced by competing forces, personal affiliations, or personal agenda items that do not align with the interests of protecting the public.
- The bill eliminates the current term limits for serving as a member of the Board of Examiners and only addresses term length.
- The bill does not address district distribution of current Board of Examiner members, which serves to limit risk of quorum outside public meetings.

With these reasons in mind, I would ask that the committee give a **DO NOT PASS** recommendation to House Bill 1279 and I would stand for any questions.



#6 1279 129 119

P.O. Box 185 · Graπon, ND 38237 Phone: (701) 213-0476 · Fax: (701) 352-2258 · Email: contact@ndsbce.org · Web: www.ndsbce.org

#### H.B. 1279

#### **HUMAN SERVICES COMMITTEE**

#### TESTIMONY OF NORTH DAKOTA STATE BOARD OF CHIROPRACTIC EXAMINERS

Chairman Weisz, members of the committee, I am Dr. Eric Froehling, member of the North Dakota Board of Chiropractic Examiners. I was appointed by Governor Dalrymple to the Board 4 years ago. I am here today to explain why the Board is opposing bill 1279.

Currently, the North Dakota Chiropractic Association's policy for nominating individuals under the process in Century Code includes a limitation on the number of terms an individual may serve; a geographic rotational system for board member appointments; and a limited quantity of applicants for the vacancy. The Board and the public benefit from those policies by allowing a diverse representation on the Board.

We are charged with the protection of the public in this state and the method of appointment that is currently in place assures that equal representation throughout the entire state constitutes the Board, as opposed to concentration of representation from one particular town.

The Century Code does not include term limits, therefore, a board member could be appointed and then re-appointed multiple times depending on the political

HB 1279 1/28/19 Pg. 2

climate, whereas the Association's policy for nominating individuals provides protection against that.

The Board of Examiners has great concerns over an unlimited number of chiropractors submitting their names to the Governor for appointment to the Board. The vetting process would be cumbersome and make a timely selection difficult. The current method of selecting the 3 nominees is open to all license holders that meet the requirements established in 43-06-03. This means all license holders, not solely members of the trade association. For the last several decades, this vetting process has been efficient and effective and has served citizens of North Dakota well by providing for efficient appointment to vacant positions.

The North Dakota Board of Chiropractic Examiners opposes House Bill 1279. That concludes my testimony and I would stand for any questions.



### The International Chiropractors Association



January 21, 2019

**Delivered Electronically** 

The Honorable Thomas Beadle North Dakota House of Representatives 4266 Russet Avenue South Fargo, ND 58104-8429

RE:

HB 1279

Dear Representative Beadle:

The International Chiropractors Association has reviewed HB 1279, which amends section 43-06-04 of the North Dakota Century Code as it relates to the appointment of members to the Board of Chiropractic Examiners. At present nominations are only received through the North Dakota Chiropractic Association. (NDCA).

The International Chiropractors Association (ICA) is the world's oldest, continually operating international chiropractic professional organization representing practitioners, students, chiropractic assistants, educators, and lay persons world-wide. The ICA was founded in 1926 in Davenport, Iowa by Dr. B. J. Palmer. We are dedicated to the growth and development of the chiropractic profession based on Dr. Palmer's commitment to professional and clinical excellence and, the fundamental principle of chiropractic as a unique, separate, distinct, and drugless health care profession.

The ICA is informed that of the 493 licensed chiropractors in the state, only 226 (less than fifty percent) have chosen to join the NDCA. We believe that all chiropractors in North Dakota should have the opportunity to submit their recommendations to the Governor for consideration. Making the changes to the nomination process increases the opportunity for participation in the state Board of Chiropractic Examiners by a broader spectrum of chiropractors. Therefore, we are pleased to endorse HB 1279.

If we can be of further assistance, please do not hesitate to contact the ICA.

Sincerely,

George B. Curry, DC, FICA

President

Cc: Michael Nicolai, DC, ICA Representative for North Dakota

#### **HB 1279**

#### Senate Human Services Committee Testimony from Rep. Thomas Beadle

Good Morning Chairman Lee and members of the Senate Human Services Committee. For the record, my name is Thomas Beadle, State Representative from District 27 in Fargo.

HB 1279 came to me at the request of a constituent who has a prominent business in my district. What this bill attempts to do is adjust the nomination structure for membership to the Board of Chiropractic Examiners so that one specific association isn't solely responsible for putting the members forward to the Governor for deliberation. As introduced, this bill simply removed language in 43-06-04 that specified that a vacancy was filled by nomination by the ND Chiropractic Association to the Governor. There are many licensed chiropractors in our state who are not members of this association, some of whom have started and are growing a separate association, and even more who would not be deemed active and involved members of the ND Chiropractic Association. As a result, many feel that relying on nomination from the association limits the ability for some licensed professionals to serve on this board.

The House Human Services, upon receiving testimony and plenty of feedback from members of the Association and the board, decided that there is indeed an issue that can be solved, but made some substantial changes to the original bill. The bill as you see before you, and as passed by a 91-0 vote in the House does a few things. It keeps the change that nominations do not just come from the association. Additionally, it expands the board membership from 5 to 7 members, adding a certified chiropractic clinical assistant and a consumer member to the board. Language is added to specify the requirements for these two members in subsections 3 through 6 of Section 1. Additionally, the existing language for the qualifications for the licensed chiropractors adds in language into subsection 2 (d) that says that an individual must be in good standing and not under investigation. This language might need to be clarified, as if an investigation is brought to an existing board member, this language might render that seat now vacant. Section 2 of this bill clarifies the term length and appointment structure for the board members.

I believe that this change is warranted and can benefit the chiropractic association. There are some licensees who will be testifying after me that can explain these changes and the need for them in much more detail and better explain the rationale for the change.

I am happy to answer any questions the committee may have.

Dr. Jake Schmitz 4233 44<sup>th</sup> Avenue South, Fargo, ND 58104 701-770-0185 drjakedc4u@gmail.com

- Licensed Chiropractor in ND (and previously NC)
- Owner of Freedom Chiropractic Health Center in Fargo
- Owner of Freedom Chiropractic Heath Center in Grand Forks
- Lifetime Member of the International Chiropractic Association
- Founder and president of the Association of Wellness Chiropractors

- Business co-owner of several entities in ND involving land, minerals, water and real estate
- VP of PTA at Kennedy Elementary School in Fargo, ND
- Went to school at Williston State College,
   Dickinson State University, Northwestern Health
   Sciences University and currently finishing
   Masters at University of Western States
- Married with 2 children

Chairman Lee, representatives of the Human Services Committee,

Hello and thank you for the opportunity to speak to you today. My name is Dr. Jake Schmitz and I am here today representing myself as a licensed chiropractor in the state of North Dakota (ND). I have been a practicing chiropractor in Fargo for just over 7 years.

I support the proposed bill HB 1279, because it will grant equal representation for all chiropractors under the law. Currently NDCC 43-06-04 only allows nominations to occur through the North Dakota Chiropractic Association (NDCA). Of these nominations, a selection is made to the North Dakota State Board of Chiropractic Examiners (NDSBCE). A state board which is responsible for governing all licensed chiropractors in North Dakota, not just members of the NDCA.

The House Human Services Committee made amendments to include other considerations for this bill as the need for change was recognized. The amendments addressed further needs such as adding outside representation onto the board and including a CCCA member (chiropractic assistant). However, there are a few adaptations to consider within these amendments.

As amended, the CCCA member needs to have been certified for a minimum of 5 years (43-06-03:3b). CCCAs are not career positions (typically) with high turnover, so finding a person who qualifies is going to be a challenge. Besides that, the CCCA certification has only been in existence (taking effect) since August 2017, so the earliest appointment to reach 5 years would not be possible until 2022. Lowering

the requirements for application would ensure the position gets filled. Furthermore, the likelihood of a CCCA being able to fulfill a full 5 year term may also be a challenge due to high turnover of that position.

In addition, to reference other professional state boards in ND:

For the ND Board of Medicine, the ND Dental Board, the ND State Board of Optometry, ND Board of Integrative Healthcare, ND Board of Physical Therapy and the ND Board of Pharmacy, there is no mention of or requirement to be nominated by an association in order to apply or serve on its corresponding state board. In fact, all of these boards have outside representation to keep it more objective. The following boards have 2 or more public members, which I would ask this committee to also consider adding a second public member to the chiropractic board.

- State Board of Medicine (2)
- ND State Board of Optometry (2)
- Board of Addiction Counseling Examiners (2)
- ND Board of Clinical Laboratory Practice (2)
- Board of Counselor Examiners (2)
- Health Council (5)
- Board of Hearing Aid Specialists (2)
- Judicial Conduct Commission (4)
- ND Board of Social Work Examiners (2)

HB 1279 was created to promote equality, diversity, growth and adaptation to our state board. The only way that happens is to make sure the best and most qualified candidates are given the opportunity to serve the state. With all of the added amendments to HB 1279, the House thought it best to leave the application process open to everyone in the state as opposed to carving the state into districts. It is the best for our chiropractic profession to leave it open because it guarantees the most qualified candidates can always apply. With districts as it currently stands, a desired candidate may have to wait 10 years for another chance (as 5 year terms tend to be filled twice). This is disheartening if the top, more qualified, candidates aren't living in the current district due to be filled.

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All licensed chiropractors should have an equal opportunity, across the board, each and every year. It should come down to leadership skills and if a candidate can govern equally and fairly. Ultimately, it should be the governor's choice to choose among all applicants, no matter where they live.

Thank you for your time. I greatly appreciate the opportunity to speak here today. I will welcome any questions you may have.

Maximum blessings,

Dr. Jake Schmitz



# NORTH DAKOTA #3 ( STATE BOARD OF CHIROPRACTIC EXAMINERS

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#### H.B. 1279

#### SENATE HUMAN SERVICES COMMITTEE

#### TESTIMONY OF NORTH DAKOTA STATE BOARD OF CHIROPRACTIC EXAMINERS.

Chairman Lee, members of the committee, I am Lisa Blanchard, Executive Director of the North Dakota Board of Chiropractic Examiners. The Board has voted unanimously to support House Bill 1279 with the proposed amendment.

In the House, the Board opposed this bill. The main reason for opposing this bill was because the Board felt that the Board and the public benefit from the current ND Chiropractic Association's nomination policies by allowing a diverse representation on the Board. We are charged with the protection of the public in this state and the method of appointment that is currently in place assures that equal representation throughout the entire state constitutes the Board, as opposed to concentration of representation from one particular town.

Given the testimony and response from the House committee, however, the Board feels that its concerns can be addressed within the structure of the proposed Engrossed House Bill 1279, which addresses some of the committee and public's concerns over the current nomination practice.

I have attached to my testimony a proposed amendment to HB 1279. As you can see, it provides for an addition on page 1, line 11, and requires that each of the five



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(5) appointed doctors of chiropractic comes from a different area of the state. This allows all portions of the state to be represented, whether rural or more densely populated, as each portion of the state has different issues and perspectives that provide for a diverse approach to matters before the board.

The North Dakota Board of Chiropractic Examiners supports engrossed House Bill 1279 with the proposed amendment. That concludes my testimony and I would stand for any questions.

#### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1279

Page 1, line 11, after "chiropractic" insert ", as follows:

- (1) One doctor of chiropractic practicing in Cass, Ransom, Richland, or Sargent county;
- (2) One doctor of chiropractic practicing in Benson, Cavalier, Grand Forks, Nelson, Pembina, Ramsey, Towner, Trail, or Walsh county;
- (3) One doctor of chiropractic practicing in Bottineau, Burke, Divide, McHenry, McKenzie, McLean, Mountrail, Pierce, Renville, Rolette, Sheridan, Ward, Wells, or Williams county;
- (4) One doctor of chiropractic practicing in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, or Stark county; and
- (5) One doctor of chiropractic practicing in Barnes, Dickey, Eddy, Foster, Griggs, Kidder, LaMoure, Logan, McIntosh, Steele, or Stutsman county"

Renumber accordingly



Chairman Lee and members of the Senate Human Services Committee, my name is Kris Anderson. I am a chiropractor in Grand Forks, where I have practiced with my wife, who is also a chiropractor, for the last seven years. In September 2018, I began also seeing patients part-time at Valley Community Health Center in Larimore. I currently serve as the President-elect for the ND Chiropractic Association (NDCA), and it is in that role I am here today to speak to you in support of HB 1279, relating to membership of the state board of chiropractic examiners (Licensing Board); and to provide for application.

The reason the Professional Association has taken an active role regarding this particular bill is that the NDCA serves as the de facto nominating committee for the Licensing Board; presenting three names from which the Governor appoints a new member. We support HB 1279 because this bill codifies into law and expands upon a process currently established by our bylaws that we believe is important to maintain the function and integrity of the Licensing Board in its role to regulate the practice of chiropractic in ND.

First, HB 1279 expands the Licensing Board to include a Certified Chiropractic Clinical Assistant (CCCA) member and a consumer member. This change is more consistent with the structure of other similar boards in ND (e.g., Dental, Medical, Physical Therapy, and Pharmacy). Expanding membership and separating the Professional Association from the Licensing Board nominations also serves the direction of HCR 3026, passed during the 65<sup>th</sup> Assembly in 2017, to retain antitrust law immunity for Licensing Boards whose members also serve as market participants.

Second, HB 1279 expands eligibility criteria for chiropractors and establishes eligibility criteria for the CCCA and consumer members that we believe reinforce the expectation that Licensing Board members are meant to serve the interests of the public. We believe the eligibility criteria require an applicant to disclose significant secondary personal interests, pecuniary or otherwise, that could reflect poorly on the Licensing Board or negatively impact the integrity of its work.

Third, HB 1279 creates term limits for Licensing Board members, and fourth, HB 1279 establishes a mechanism whereby a vacancy occurs if a member is repeatedly absent. Lastly, we would encourage the Licensing Board to adopt the current district structure in their administrative rules. We understand it is not necessary to spell out the districts specifically in the law, but if this committee considers further amending HB 1279 to include districts, then the NDCA supports that effort.

Madam Chairman and Committee Members, thank you for your time and consideration. I hope you will agree with your colleagues from the House Human Services Committee who unanimously recommended DO PASS and then voted unanimously on the floor to pass HB 1279. That concludes my prepared testimony, and I am happy to answer any questions.