

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2253

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Deanna D. Hall
Operator's Signature

10/21/03
Date

2003 SENATE HUMAN SERVICES
SB 2253

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10/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2253

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 28, 2003

Tape Number	Side A	Side B	Meter #
1	X		0 - 2854
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE opened the public hearing for SB 2253 relating to the powers of the board of medical examiners. There is a fiscal note.

Roll call was read. Senator Brown was to join the meeting shortly.

SENATOR RALPH KILZER introduced the bill. The bill adds the ability of the State Board of Medical Examiners to require an applicant or a licensee who is subject to a disciplinary investigation to be fingerprinted and the cost of the fingerprinting would be accessed to the applicant or the licensee who is being investigated. (Written testimony submitted)

SENATOR FISCHER: Question regarding fiscal note ... amount born by the state? (Meter #151 - 230)

ROLF SLETTEN, Executive Secretary & Treasurer of Board of Medical Examiners, testified in favor. The Board of Medical Examiners has two main functions 1) processing applications from those physicians who seek to practice medicine in this state and 2) prosecuting disciplinary

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Senate Human Services Committee
Bill/Resolution Number SB 2253
Hearing Date January 28, 2003

actions against physicians who have violated the Medical Practice Act. This Bill affects both of those functions. He stated that the fiscal note is "a wash." (Written testimony) (Meter #257 - 790)

ROLF SLETTEN: The Bureau of Criminal Investigation do not object to our being here. They have called and asked about the number of people that we would be checking. On the average we process about 325 applications a year. (Meter #798 - 814)

SENATOR LEE: Would you refresh our memories on the national data bank? (Meter # 821 - 970)

SENATOR LEE: Fingerprint issue? (Meter # 976 - 994)

ROLF SLETTEN: It would be done on each new applicant. Talked about disciplinary action. (Meter # 1011 - 1125)

SENATOR POLOVITZ: Do foreign doctors go through the same process? (Meter #1132 - 1255)

SENATOR LEE: Asked for list of questions given to applicants.

ROLF SLETTEN: Application form will be provided.

ROLF SLETTEN: The Medical Association may offer an amendment here. If they do, I would like a chance to respond. (Copy of proposed amendments to SB 2243 by ND Medical Association submitted)

BRUCE LEVI, with the North Dakota Medical Association, testified in a neutral position. Our concern is that the bill is overly "broad". Looking for a standard. (Written testimony plus proposed amendments attached) (Meter # 1399 - 1865)

SENATOR LEE: Fingerprints as part of a disciplinary investigation? (Meter # 1870 - 1993)

Deanna Waller
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Senate Human Services Committee

Bill/Resolution Number SB 2253

Hearing Date January 28, 2003

JERRY KLEMMET, Director of Bureau of Criminal Investigation, testified in a neutral position.

(Written testimony attached) They requested that the fiscal impact of this bill be considered in conjunction with the other mentioned bills conducting criminal records checks. Additional manpower would be required. (Meter # 2050 - 2224)

ROLF SLETTEN: Responded to the proposed Medical Association amendments. We are very much opposed. Don't really understand or why they would be proposed. If the amendment were adopted, we wouldn't be able to tell about the doctor's criminal history. Physician's files are public. (Meter # 2243 - 2576)

BRUCE LEVI: Responded proposed amendments have to be taken in their context. Need for a standard. (Meter # 2588 - 2655)

JACK MCDONALD, of the ND Newspaper Association and ND Broadcaster's Association, testified in opposition to the bill because it does take open records and tries to make them confidential. We oppose that as not being good public policy. Right now, the records of the BCI are open records. (Meter # 2698 - 2840)

SENATOR LEE closed the public hearing on SB 2253. (Meter #2854)

SENATOR LEE reopened the discussion SB 2253 regarding physicians being fingerprinted. (Meter #722 - 878)

SENATOR BROWN made a motion to do pass.

SENATOR FISCHER seconded the motion.

Roll call was read. 6 yes 0 no.

SENATOR FISCHER to be the carrier. (Meter # 1025)

FISCAL NOTE
Requested by Legislative Council
03/18/2003

Amendment to: SB 2253

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$14,950		\$14,950	
Expenditures			\$14,950		\$14,950	
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

As amended, in addition to requiring state and federal records checks, the engrossed bill requires that the actual cost of conducting the background check be paid for these services, which is \$23.

Currently the state charges a \$20 fee which is deposited in the General Fund, so any increases in workload caused by the requirement to conduct criminal record checks for specified groups or organizations are not covered by the Attorney General's appropriation for this purpose. This bill, taken by itself, does not require an additional FTE, but this and other similar bills, taken as a whole, would require additional FTE if enacted. Please refer to Senate Bill Nos. 2041 and 2223 and House Bill No. 1252, which provide for criminal records checks on certain people having direct contact with children, city and county employees, and by the Information Technology Department respectively.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Board of Medical Examiners estimates that it will request criminal record checks on 325 applicants for licensure or licensees annually, or 650 in the 2003-2005 biennium. Revenues, at the actual cost of conducting the background check - \$23 per check - are estimated at \$14,950 for the 2003-2005 biennium.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Since the engrossed bill provides that the Board of Medical Examiners will pay the actual cost of conducting the record check, the expenditures and revenues are the same amount.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

No additional appropriation has been made to cover the costs anticipated by this bill.

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Date

Name:	Bob Helten/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-5500/328-3622	Date Prepared:	03/21/2003

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10/21/03
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FISCAL NOTE
Requested by Legislative Council
01/24/2003

Bill/Resolution No.: SB 2253

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$13,000		\$13,000	
Expenditures			\$19,838		\$19,838	
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill requires a state and federal records check. State statute assesses a \$20 fee for a state record check. The state receives no remuneration for processing federal records checks, but the estimated cost in staff time and operating expenses for the Bureau of Criminal Investigation (BCI) to process records checks is approximately \$18.34 for state only, and \$30.52 for state and federal (the average for all records checks is estimated at \$20.12). The \$20 fee charged by the state goes to the General Fund, so any increases in workload caused by the requirement to conduct criminal record checks for specified groups or organizations are not necessarily covered by the Attorney General's appropriation for BCI staff. This bill, taken by itself, does not require an additional FTE, but this and other similar bills, taken as a whole, would require an additional FTE if enacted. Please refer to Senate Bill No. 2223 and House Bill No. 1252, which allow for criminal records checks on city and county employees, and by the Information Technology Department respectively.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Board of Medical Examiners estimates that it will request criminal record checks on 325 applicants for licensure or licensees annually, or 650 in the 2003-2005 biennium. Revenues, at the \$20 fee, would be \$13,000 in 2003-2005, which would be deposited in the General Fund.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

It is estimated that, given personnel and operating costs for BCI personnel directly involved in conducting criminal records checks, the current cost of processing a state and federal record check is approximately \$30.52. There are five FTE positions directly involved in this activity. The cost of processing the 650 criminal records checks anticipated by this bill, based on the estimate per record check, is \$19,838.

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C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

No additional appropriation has been made to cover the costs anticipated by this bill.

Name:	Robert Helten/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-5500/328-3622	Date Prepared:	01/24/2003

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12/21/03
Date

Date: 01-28-03
Roll Call Vote #: ①

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2253

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Brown Seconded By Sen. Fischer

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield	✓				
Senator Michael Polovitz	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Sen. Fischer

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

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Operator's Signature

Deanna Walsh

Date

10/21/03

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 4:26 p.m.

Module No: SR-16-1233
Carrier: Fischer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2253: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2253 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-16-1233

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10/21/03
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2003 HOUSE HUMAN SERVICES

SB 2253

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Deanna D. Hall
Operator's Signature

10/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2253

House Human Services Committee

☐ Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
2	x		0.1 - 17.0
Committee Clerk Signature <i>Shawn Langraw</i>			

Minutes:

Sen. Kilzer appeared as prime sponsor in support with written testimony.

Rep. Weisz asked if this is an option of the Board and not a requirement?

Answer: Yes

Rolf Sletten, North Dakota Board of Medical Examiners appeared in support with written testimony.

Rep. Amerman: how would you investigate from another country?

Answer: unless from Canada, there would be no way.

Rep. Weisz: Couldn't we just give the name to BCI and they could look up?

Answer: No, we need this kind of statue in place.

Bruce Levi, North Dakota Medical Association appeared in support with written testimony.

Rep. Porter asked if this deals with physician assistants. Answer: No

Rep Price: Asked for break down of \$50.00 cost.

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Operator's Signature

10/21/03
Date

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House Human Services Committee
Bill/Resolution Number SB 2253
Hearing Date February 26, 2003

Answer: \$20.00 to BCI, \$5 or \$10 to law enforcement (finger prints), so we feel at this point it should be quite a bit less than \$50.00.

Jerry Kemmet, Director of BCI appeared neutral with written testimony.

Rep. Price: If your currently charging \$20.00 and your cost for state/federal is \$30.00, any reason why your not raising your fee?

Answer: There actually is a bill that would raise the fee to \$25.00 for a criminal history record check (SB2041). The reason it cost us more to do the check than what we take in is, we charge \$20.00 for the criminal for the State check, \$22.00 for the federal check that they would require, which is \$42.00, but the federal government takes the \$22.00 and it actually costs us \$30 and some cents to do both checks. That's why the fiscal note reflects only taking in \$13000.00 in expending.

Closed hearing.

Deanna D. Hall
Operator's Signature

10/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2253

House Human Services Committee

☐ Conference Committee

Hearing Date March 5, 2003

Tape Number	Side A	Side B	Meter #
2		x	50.5 - 57.7
Committee Clerk Signature <i>Sharon Bengtson</i>			

Minutes: Committee Work.

Rep. Porter: During the hearing, it came to everyone's attention that the department was charging less than what it actually cost to do finger prints. He asked the intern to do up some language that would add a section to this bill and then we would refer it to appropriations where they would be getting their hands on the other two pieces of legislation that also deal with finger prints and the BCI's budget so that they can plug everything into BCI's budget that relates to this and then see if they need to add additional FTE's, to make sure we aren't waiting 6 months to find that teacher is a pedophile situation and a doctor is an ax murderer.

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10/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2253

House Human Services Committee

☐ Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
1		x	49.1 -61.4
Committee Clerk Signature <i>Sharon R. Crawford</i>			

Minutes: Committee work.

Rep. Price: This is the finger printing bill. This is the bill that BCI is not charging as much as it cost them to do the finger printing back ground check and we check the section of code that we would have to amend and its Section 12. So its not in the Medical Examiners piece of code at all, we're going to the right one as far as the fees for the criminal history and basically the language says the Bureau shall charge the licensee or applicant the actual costs for each record check. We are taking out the language "shall impose a fee of \$20.00" so we are not going in the hole while we're doing these, there is more and more groups are asking us to do them.

Rep. Devlin moves the amendment, second by Rep. Wieland. Vote: 12 - 0 - 1 Weisz absent.

Rep. Amerman: So this covers every back ground check for the State? Yes

Rep. Porter motioned a DO PASS As Amended and re-refer to Appropriations, second by Rep.

Pollert.

VOTE: 12 - 0 - 1 Rep. Porter will carry the bill.

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Deanna Waller
Operator's Signature

10/21/03
Date

38270.0101
Title.0200

Adopted by the Human Services Committee
March 5, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2253

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 12-60-16.9 of the North Dakota Century Code is amended and reenacted as follows: **Criminal history record information - Fee for record check.** The bureau shall ~~charge the licensee or applicant the actual cost~~ ~~impose a fee of twenty dollars~~ for each record check. The bureau shall waive the fee for any criminal justice agency or court, and shall impose a fee of three dollars for each record check for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of minors.

Renumber accordingly

Page No. 1

38270.0101

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10/21/03
Date

House Amendments to SB 2253 - Human Services Committee 03/11/2003

Page 1, line 1, after "reenact" Insert "section 12-60-16.9 and"

Page 1, line 2, after "to" Insert "criminal history record information fees and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 12-60-16.9 of the North Dakota Century Code is amended and reenacted as follows:

12-60-16.9. Criminal history record information - Fee for record check.

~~The~~ For each criminal history record check conducted, the bureau shall impose a fee of ~~twenty dollars for each~~ in an amount equal to the actual cost of conducting the record check. The bureau shall waive the fee for any criminal justice agency or court, and shall impose a fee of three dollars for each record check for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of minors."

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Operator's Signature

Date

March 11
Date: ~~February~~, 2003
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2253

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amend & Refer to Approp.

Motion Made By Rep Porter Seconded By Rep Pollert

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig	✓	
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman	✓	
Rep. Robin Weisz A			Rep. Carol Niemeier	✓	
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Gary Kreidt	✓				
Rep. Alon Wieland	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Porter

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

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Dennis D. Hall
Operator's Signature

10/21/03
Date

REPORT OF STANDING COMMITTEE (410)
March 11, 2003 2:32 p.m.

Module No: HR-43-4481
Carrier: Porter
Insert LC: 38270.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2253: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2253 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" Insert "section 12-60-16.9 and"

Page 1, line 2, after "to" Insert "criminal history record information fees and"

Page 1, after line 3, Insert:

"SECTION 1. AMENDMENT. Section 12-60-16.9 of the North Dakota Century Code is amended and reenacted as follows:

12-60-16.9. Criminal history record information - Fee for record check.
~~The For each criminal history record check conducted, the bureau shall impose a fee of twenty dollars for each in an amount equal to the actual cost of conducting the record check.~~ The bureau shall waive the fee for any criminal justice agency or court, and shall impose a fee of three dollars for each record check for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of minors."

Renumber accordingly

2003 HOUSE APPROPRIATIONS

SB 2253

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2253

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-25-03

Tape Number	Side A	Side B	Meter #
1		X	11.8 -16.0
Committee Clerk Signature <i>Chris S. Svedjan</i>			

Minutes:

Chairman Svedjan Opened SB 2253 for discussion. A quorum was present.

Rep. Price The Board of Medical Examiners wants permission on getting fingerprints for some applying physicians.

Rep. Carlisle We don't need those amendments here.

Kathy Roll, Office of the Attorney General - to Allen Knudson, LC - Since there is no engrossment there are no amendments to remove.

Rep. Carlisle There will be a motion for the House to reconsider actions on this, so you don't need any recommendation.

Chairman Svedjan Closed SB 2253 discussion.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2253

House Appropriations Committee

☐ Conference Committee

Hearing Date 04-01-03

Tape Number	Side A	Side B	Meter #
1		X	7.4 - end 30.0
Committee Clerk Signature <i>Chris I. [Signature]</i>			

Minutes:

Chairman Svedjan Opened SB 2253 for discussion. A quorum was present.

Chairman Svedjan This bill reconciles the fingerprinting fees with the cost. It would be appropriate to strip off the amendments and send it back up to the floor.

Rep. Gulleason Is the concern on the \$3? This gives more flexibility if we strip the amendments.

Rep. Kerzman Only the underlined language comes off with the amendments.

Allen Knudson These amendments conflict with 2041.

Rep. Warner The \$3 fee is old language.

Knudson That will stay in.

Rep. Delzer The original version would take that out.

Sandy Taylor, The Attorney General's Office The amendments should be stripped on the floor. The \$3 fee only applies to nonprofits dealing with children.

Rep. Skarphol Does this apply to the teachers in the Catholic Diocese?

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Deanna [Signature]
Operator's Signature

10/21/03
Date

Page 2

House Appropriations Committee

Bill/Resolution Number SB 2253

Hearing Date 04-01-03

Taylor Yes, if you want it out, we'll be fine with that.

Chairman Svedjan We'll wait on a decision with this. Closed discussion on SB 2253.

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Date

2003 TESTIMONY

SB 2253

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Deanna O. Bell
Operator's Signature

10/21/03
Date

Testimony Before the Senate Human Services Committee
SB 2253
Jerry Kemmet, Director
Bureau of Criminal Investigation
January 28, 2003

Madame Chairman and Members of the Committee:

I would like to comment with regard to the fiscal note on SB 2253. It is the responsibility of the BCI to collect and maintain records of criminal arrests and prosecutions and to assemble criminal history records for offenders in the state. It is also our responsibility to release that information for whatever reasons the legislature deems appropriate. We take that responsibility very seriously, and the only thing we request is adequate staff to do that job as accurately and completely as we possibly can.

This bill, by itself, does not put an unmanageable burden on the BCI criminal records staff, but, along with several other bills, it will create the need for an additional FTE in the criminal records unit. Other bills include SB 2223, which would allow cities and counties to conduct criminal records checks on designated applicants for employment, and HB 1252, which would mandate records checks for certain employees of the Information Technology Department. An amendment to SB 2041, introduced yesterday, would allow nonprofit charitable organizations providing services to minors to conduct state criminal background checks on all employees, agents and volunteers at a reduced fee.

Each of these bills, taken by itself, is not anticipated to have a significant impact at present, but if each one of them is enacted, the combined effect will require that we have an additional Identification Technician in the BCI criminal records unit.

We request that you consider the fiscal impact of this bill in conjunction with the others mentioned.

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Deanne O'Neil
Operator's Signature

10/21/03
Date

TESTIMONY
by Senator Ralph Kilzer
To the Senate Human Services Committee
Senate Bill 2253

To Chairman Lee, and members of the Senate Human Services Committee . Senate Bill 2253 was sponsored by me and brought to my attention by the State Board of Medical Examiners. The bill adds the ability of the State Board of Medical Examiners to require an applicant or a licensee who is subject to a disciplinary investigation to be fingerprinted and the cost of the fingerprinting would be assessed to the applicant or the licensee who is being investigated. This follows the procedure for the requirement for someone obtaining a teacher's license. The representative of the State Board of Medical Examiners will testify further about this. I would be happy to answer any questions.

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Dennis D. Kilzer
Operator's Signature

12/21/03
Date

Testimony on SB 2253
Senate Human Services Committee
North Dakota Medical Association
January 28, 2003

Chair Lee and Members of the Senate Human Services Committee. My name is Bruce Levi. I'm with the North Dakota Medical Association which is the professional membership organization for North Dakota's active and retired physicians, residents, and medical students.

The protection of public health and safety is a matter of paramount concern for all physicians. The Association does not oppose the notion of criminal background checks for applicants for medical licensure in North Dakota. However, the Medical Association was not provided an opportunity formally to discuss the proposal with members of the Board of Medical Examiners and has many questions regarding the Board's proposal granting the Board statutory authority to conduct state and national criminal background checks on all applicants for licensure, as well as current licensees who are subject to investigation.

My own research has come up with a small number of states that have addressed this issue in statute -- some states extend the authority to all professional boards (Iowa is currently reviewing such a proposal). Other states have statutes relating to other professions as well including nurses and other health professionals and nursing home employees, teachers, attorneys and others. There are two other bills introduced this session to allow fingerprinting of city and county employees (SB 2223) and state information technology department employees (HB 1252).

We have several questions:

Has the Board experienced identifiable problems that demand this kind of response that places a burden upon all applicants? Is there a less expansive, more focused approach to accomplishing the public safety goal implicit in this proposal?

What are the licensure time delays that can be reasonably expected by adding these requirements?

Have all the costs been accounted for? What amount will applicants for licensure likely be paying?

Only a small number of states appear to have implemented this requirement as part of the medical licensure process. Has it worked well in those states? Are there additional issues that should be addressed in North Dakota to assure a fair and efficient process here?

Proposed Amendments

The proposed amendment would simply conform the Board's proposal to the current statute relating to teachers.

(1) The proposed amendments would ensure that the authority to require fingerprints applies only to the initial application for licensure, like the current teacher law.

(2) The proposed amendments would remove the reference to the broad language allowing for a criminal background check on any physician being investigated. At a minimum, NDMA believes that a criminal background check is warranted only if the nature of a subsequent disciplinary action justifies that action, and that the decision to initiate a background check is determined by the Board or investigative panel. The current language is very broad.

(3) The proposed amendment would also include the same confidentiality protections offered to teachers - the bill relating to city and county employees (SB 2223) also includes these confidentiality protections as do the laws in many other states. The amendments would also require the Board to disclose the records to the applicant if the applicant for licensure is denied.

Thank you for the opportunity to discuss these issues.

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ND Medical Association
January 28, 2003

PROPOSED AMENDMENTS TO SB 2253

Page 1, line 12, after "an" insert "initial"

Page 1, line 13, remove "or a licensee who is the subject of a disciplinary investigation"

Page 1, line 14, remove "or licensee's"

Page 1, line 20, remove "licensee or" and after the underscored period insert "Criminal history records provided to the board pursuant to this section are confidential and may only be used by the board for determining an applicant's eligibility or disqualification for licensure. However, the records must be disclosed to the license applicant in the event the license application is denied."

Renumber accordingly

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Current Fingerprinting Law Relating to Teachers

15.1-13-14. Initial licensure of teachers - Background check. The board shall check, or cause to be checked, the background of each applicant for initial licensure as a teacher. The board shall require each applicant for licensure to file a complete set of the applicant's fingerprints, taken by a law enforcement officer or a properly trained designee of a law enforcement officer, and all other information necessary to complete a statewide and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure.

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10/21/03
Date

TO: SENATE HUMAN SERVICES COMMITTEE
FROM: ROLF P. SLETTEN, EXECUTIVE SECRETARY & TREASURER
RE: SENATE BILL NO. 2253
DATE: JANUARY 28, 2003

The Board of Medical Examiners has two main functions 1) processing applications from those physicians who seek to practice medicine in this state and 2) prosecuting disciplinary actions against physicians who have violated the Medical Practice Act. This Bill affects both of those functions.

New Applications - every application for a license to practice medicine in North Dakota (or any other state) starts an in-depth review of the applicant's credentials and qualifications to practice medicine. First the prospective licensee completes our application form. A part of that form requires the applicant to answer a series of questions regarding failed licensing examinations, unsuccessful licensure applications, investigations by licensing boards, agencies or medical facilities, disciplinary actions in other states, termination from medical school or residency programs, disciplinary action brought by other licensing boards or agencies, problems with DEA registration, the denial removal or restriction of hospital privileges, malpractice actions, criminal convictions, physical or mental conditions which impair the applicants ability to practice medicine safely and competently, and any history of drug or alcohol abuse. The applicant is also required to provide biographical information, information about test scores, a complete list of all other states

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10/21/03
Date

where the applicants has been licensed or has applied for licensure and a complete and detailed chronological history of all professional education, training and experience from undergraduate education until the time of application.

During the credentialing process almost all of this information is verified through contacts with other sources, however, we have never been able to verify the applicant's criminal history or the lack of criminal history in any systematic sort of way. This Bill will change that.

Disciplinary Actions - A good argument could be made that the Board should do a criminal background check on every individual who currently holds a license to practice medicine in this state but the truth is that the numbers are too overwhelming (approximately 2700 licensees) and so it is our intention to begin doing these checks on two groups 1) the new applicants and 2) those licensees who are the subject of an investigation. I can't even promise that we will run a criminal background check on every respondent in every disciplinary action but clearly there are cases where it should be done, perhaps most obviously in cases where a licensee is accused of doing something dishonest.

We already get information from every licensee about criminal convictions. This will give us a chance to verify the information that has been reported to us. Over the years we have received applications or prosecuted disciplinary actions against physicians that have been convicted of a truly amazing array of offenses including DUI's, thefts, arson, murder, attempted murder, securities violations, various firearms violations, assault, numerous drug offenses, and various sex offenses. Earlier this month the Board took disciplinary action against a physician who had been convicted of two counts of criminal trespass (both felonies) and a number of misdemeanors.

Obviously, it is in the best interest of the public that the Board be able to uncover this sort of information thoroughly and systematically.

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Deanna Wall
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10/21/03
Date

TO: HUMAN SERVICES COMMITTEE
FROM: ROLF P. SLETTEN, EXECUTIVE SECRETARY & TREASURER
RE: NDMA'S PROPOSED AMENDMENTS TO SB 2253
DATE: JANUARY 28, 2003

This is in response to the amendments to SB 2253 being proposed by the North Dakota Medical Association. If the Medical Association's amendments are adopted it will mean that:

1. When a citizen calls the Board of Medical Examiner's office to request information about a physician we would not be able to tell that citizen about the physician's criminal history. It is difficult to imagine how that sort of law would serve the public. We would be required to keep information about criminal convictions confidential even though information about criminal convictions is otherwise public. Criminal convictions are routinely reported in the newspapers and on television. They are available at every court house. They are public information and yet this amendment would mean that once the information landed in our files it would suddenly become confidential. That seems absurd.
2. The proposed amendment states that our knowledge of criminal convictions could only be used to make decisions regarding "eligibility or disqualification for licensure". In other words, we would not be able to use information about criminal convictions to bring a disciplinary action against a physician even though the law

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Dennis Wall
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states that one of the grounds for taking disciplinary action against a physician is "the conviction of any misdemeanor determined by the Board to have a direct bearing upon the person's ability to serve the public as a practitioner of medicine or any felony. . .". Adopting this amendment would yield an absurd result.

3. Physician licensure files are public (with the exception of some information about drug and alcohol history). They always have been. If this amendment were to be adopted, in other words if the Board had to keep criminal convictions confidential and couldn't use criminal convictions to bring a disciplinary action, we would suddenly have an exception to the open records law and that exception would only work to the advantage of people who have been convicted of crimes.

The Board of Medical Examiners exists to protect the public. The North Dakota Medical Association exists to advance the interest of North Dakota doctors. Often the interest of the public and the profession are compatible. Sometimes they are not. In this case the proposed amendments are very obviously not in the best interest of the public.

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Operator's Signature

Deanna D. Hall

Date

10/21/03

TESTIMONY
by Senator Ralph Kilzer
To the House Human Services Committee
Senate Bill 2253

To Chairman Price and members of the Senate Human Services Committee.

Senate Bill 2253 was sponsored by me and brought to my attention by the State Board of Medical Examiners. The bill adds the ability of the State Board of Medical Examiners to require an applicant or a licensee who is subject to a disciplinary investigation to be fingerprinted and the cost of the fingerprinting would be assessed to the applicant or the licensee who is being investigated. This is like the procedure for the requirement for someone obtaining a teacher's license. The cost is estimated to be less than \$50. The representative of the State Board of Medical Examiners will testify further about this.

I would be happy to answer any questions.

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Operator's Signature

12/21/03
Date

North Dakota State Board of Medical Examiners

ROLF P. SLETTEN
Executive Secretary and Treasurer

LYNETTE McDONALD
Administrative Assistant

TO: HOUSE HUMAN SERVICES COMMITTEE
FROM: ROLF P. SLETTEN, EXECUTIVE SECRETARY & TREASURER
RE: SB 2253
DATE: FEBRUARY 26, 2003

The Board of Medical Examiners has two main functions 1) processing applications from those physicians who seek to practice medicine in this state and 2) prosecuting disciplinary actions against physicians who have violated the Medical Practice Act. This Bill affects both of those functions.

New Applications - every application for a license to practice medicine in North Dakota (or any other state) starts an in-depth review of the applicant's credentials and qualifications to practice medicine. First the prospective licensee completes our application form. A part of that form requires the applicant to answer a series of questions regarding failed licensing examinations, unsuccessful licensure applications, investigations by licensing boards, agencies or medical facilities, disciplinary actions in other states, termination from medical school or residency programs, disciplinary action brought by other licensing boards or agencies, problems with DEA registration, the denial removal or restriction of hospital privileges, malpractice actions, criminal convictions, physical or mental conditions which impair the applicants ability to practice medicine safely and competently, and any history of drug or alcohol abuse. The applicant is also required to provide biographical information, information about test scores, a complete list of all other

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Lynette McDonald
Operator's Signature

10/21/03
Date

states where the applicants has been licensed or has applied for licensure and a complete and detailed chronological history of all professional education, training and experience from undergraduate education until the time of application.

During the credentialing process almost all of this information is verified through contacts with other sources, however, we have never been able to verify the applicant's criminal history or the lack of criminal history in any systematic sort of way. This Bill will change that.

Disciplinary Actions - A good argument could be made that the Board should do a criminal background check on every individual who currently holds a license to practice medicine in this state but the truth is that the numbers are too overwhelming (approximately 2700 licensees) and so it is our intention to begin doing these checks on two groups 1) the new applicants and 2) those licensees who are the subject of an investigation. I can't even promise that we will run a criminal background check on every respondent in every disciplinary action but clearly there are cases where it should be done, perhaps most obviously in cases where a licensee is accused of doing something dishonest.

We already get information from every licensee about criminal convictions. This will give us a chance to verify the information that has been reported to us. Over the years we have received applications or prosecuted disciplinary actions against physicians who have been convicted of a truly amazing array of offenses including DUI's, thefts, arson, murder, attempted murder, securities violations, various firearms violations, assault, numerous drug offenses, and various sex offenses. Last month the Board took disciplinary action against a physician who had been convicted of two counts of criminal trespass (both felonies) and a number of misdemeanors.

Obviously, it is in the best interest of the public that the Board be able to uncover this sort of information thoroughly and systematically.

**Testimony on SB 2253
House Human Services Committee
February 26, 2003**

Chair Price and Members of the Senate Human Services Committee. I'm Bruce Levi with the North Dakota Medical Association.

The protection of public health and safety is a matter of paramount concern for all physicians. The Association does not oppose the notion of criminal background checks for applicants for medical licensure in North Dakota. SB 2253 would grant the Board statutory authority to conduct state and national criminal background checks on all applicants for licensure, as well as current licensees who are subject to investigation. Many of the initial questions NDMA had on the Board's proposal in the Senate were raised because we had not been provided an opportunity formally to discuss the proposal with members of the Board of Medical Examiners prior to the session.

My own research shows that a small number of states have addressed this issue in statute – some states extend the authority to initiate background checks to all professional boards. Other states have statutes relating to other specific professions as well, including nurses and other health professionals and nursing home employees, teachers, attorneys and others. In addition to the current law relating to fingerprinting teachers, there are two other bills introduced this session to allow fingerprinting of city and county employees (SB 2223) and state information technology department employees (HB 1252). At some point, the state may wish to consider legislation that addresses background checks as a general matter for all professional boards and state agencies so that there is some uniformity in requirements.

We accept the testimony offered in the Senate Human Services Committee by Mr. Sletten that provides assurances that this process will not create licensure time delays or unreasonable costs, or result in indiscriminant use when physicians are subject to investigations; and that the language applies to initial license applications and not license renewals.

Thank you for the opportunity to discuss these issues.

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Bruce Levi
Operator's Signature

10/21/03
Date

Senate Bill 2253
Before the House Human Services Committee
Jerry Kemmet, Director
Bureau of Criminal Investigation
February 26, 2003

Madame Chairman and Members of the Committee:

I would like to comment with regard to the fiscal note on SB 2253. It is the responsibility of the BCI to collect and maintain records of criminal arrests and prosecutions and to assemble criminal history records for offenders in the state. It is also our responsibility to release that information for whatever reasons the legislature deems appropriate. We take that responsibility very seriously, and the only thing we request is adequate staff to do that job as accurately and completely as we possibly can.

This bill, by itself, does not put an unmanageable burden on the BCI criminal records staff, but, along with several other bills, it will create the need for an additional FTE in the criminal records unit. Other bills include SB 2223, which would allow cities and counties to request federal criminal records checks on designated applicants for employment, and HB 1252, which would mandate federal records checks for certain employees of the Information Technology Department. An amendment to SB 2041 seeks to allow nonprofit charitable organizations providing services to minors to request federal criminal background checks on all employees, agents, and volunteers. Each of the federal records checks would also be accompanied by a state records check, which would further increase BCI workload.

Each of these bills, with the exception of SB 2041, taken by itself, is not anticipated to have a significant impact at present, but if each one of them is enacted,

Deanna Hall
Operator's Signature

10/21/03
Date

the combined effect will require that we have an additional Identification Technician in the BCI criminal records unit.

We request that you consider the fiscal impact of this bill in conjunction with the others mentioned.

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