



NORTH DAKOTA
STATE BOARD OF CHIROPRACTIC EXAMINERS

June 11, 2008

John Walstad
Code Revisor
North Dakota Legislative Council

Re: Administrator Rules Committee Meeting

Dear Mr. Walstad

This is the written testimony of the North Dakota State Board of Chiropractic Examiners.

1. Whether the rules resulted from statutory change made by the Legislative Assembly?

Answer: No. The rules resulted from a desire to incorporate a more descriptive differentiation between unprofessional conduct and professional boundary issues. There were numerous grimmer changes made for clarification. License renewal fees were increased to reflect the changing times. Board Member per diem was increased. Terms of revocation were described and doctor rights while suspended were clarified. National Board Examination included usage of their new Ethics and Boundary test. Reporting of disciplinary action was spelled out. The rules were last amended in 2001.

2. Whether the rules are related to any federal statute or regulation?

Answer: No the rules are not related in any federal statute or regulation.

3. A description of the rulemaking procedure followed in adopting the rules, e.g. the type of public notice given and the extent of public hearings held on the rules.

Answer: At the Boards semiannual meeting in January 2006 a motion was made and passed to review the rules and consider some upgrades. A letter was sent to Edward Erickson, legal counsel, advising him of our intent and asking for suggestions on due process. The Board members reviewed the rules and all made suggested changes. The Board reviewed rules from other jurisdictions and the advice that Mr. Erickson had

provided. The Board notified the North Dakota Chiropractic Association, and its members that we were proposing rules changes. The NDCA appointed a committee, who met and offered suggestions. The Board had one special meeting in March of 2007 and drafted the proposed changes, including the suggestions from the NDCA. The Board also spent considerable time during the agenda of our semiannual meeting in June 2007 discussing the changes and modifying the draft. The final draft was forwarded to Mr. Erickson for legal advice and due process. In our semiannual newsletter dated August 2007, which was mailed to all license holders, we included a summary of the changes for their review. In addition, we sent a copy of all the changes, extrapolated from the document, for review to the in-state license holders. Two doctors responded with minor changes that were reviewed, and incorporated. Mr. Erickson drafted a Notice of Intent to Amend Administrator Rules. This notice was filed with the code revisor of the Legislative Council and sent to the North Dakota Newspaper Association, so that it could be published in each official county newspaper. The hearing was held at the Attorney General's Conference Room on the 17th floor at 9:00 a.m. March 7, 2008. No attendees signed in. The Attorney General issued a letter approving the rules as to their legality. The rules were filed with the Legislative Council

4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any changes made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearing on the rules?

Answer: The only comments came from the committee of the NDCA early in the process and were incorporated into the draft document provided everyone. There were no comments received regarding the final draft. There were no attendees at the public hearing.

5. The approximate cost of giving public notice and holding any hearing on the rules and approximate cost (not including staff time) of developing and adopting the rules?

Answer: Publication of the Notice of Intent to Amend Administrative Rules cost \$1,497.50. A special Board Meeting and conference calls cost \$1,500.00. Legal Counsel cost approximately \$550.00

6. An explanation of the subject matter of the rules and reasons for adopting the rules?

Answer: The following changes are made by the new rules.

Page 25. Clarify responsibilities of the secretary-treasurer.

Page 3

Page 26. Increase application fee and license renewal fees.

Page 27. Increase the board member per diem.

Page 28. Establish continuity with national testing if the National Board fails.

Page 28. Add a license transfer application for well-established doctors in good standing.

Page 29. Acknowledges a temporary license under the “travel to treat” program as authorized under the North Dakota Century Code.

Page 29. Replaces applications made with graduates for clarification.

Page 29. Mandates completion of a questionnaire for the board with the annual license renewal.

Page 31. Set a one-year time frame before a revoked license holder can reapply.

Page 31. Establish limits of what a suspended license holder can do.

Page 32. Alerting all Chiropractic license holders of their obligation to report child abuse.

Pages 33-34. Minor word changes in the chapter of unprofessional conduct for clarification.

Page 35. Creating a new category, addressing sexual boundary issues.

Page 35. Authorizing use each of the new National Board Ethics and Boundary Examination.

Page 37. Authorizing board utilization of PACE (providers of approved continuing education) for continuing education classes.

Page 37. Deleting multiple (must be a statement) to correct misinterpretation.

Pages 38-39. Grammatical changes under the section on Peer Review.

Page 39. Broadened the section regarding reporting of disciplinary actions.

7. Whether a regulatory analysis was required by North Dakota Century Code Section 28-32-09 and whether that regulatory analysis was issued.

Answer: The Attorney General's Office determined that a regulatory analysis was not issued or requested.

8. Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued?

Answer: The Attorney General's Office determined that a small entity regulator analysis and economic impact statement were not prepared because the agency is exempt from the requirement to prepare them.

9. Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09?

Answer: The Attorney General's Office determined that no takings assessment was required because the rule does not limit the use of real property.

10. If these rules were adopted as emergency rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the governor's approval of the emergency statutes of the rules.

Answer: The rules were not adopted as emergency rules.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carol Winkler', with a stylized flourish at the end.

Carol Winkler, D.C.

President, North Dakota Board of Chiropractic Examiners