

08-21-08

Committee Members,

First of all, thank you for taking the time to address the important issues facing pharmacy practice in North Dakota.

So that you might appreciate the comments that follow, let me provide full disclosure. I am a native North Dakotan, graduate of NDSU, employed by St. Alexius Medical Center, Bismarck, ND for the last 25 years. I am a member of the ND Pharmacist Association and the ND Health Systems Pharmacy organization. I support elimination of the Board of Pharmacy funding of the ND Pharmacist Association. I believe there is a significant inappropriate funding relationship between these two entities. I support the expansion of the membership of the pharmacy board to include representation by a pharmacy technician and a citizen member. I support the repeal of the pharmacy ownership law.

My comments in no way should be interpreted to represent the position of St. Alexius Medical Center or the St. Alexius Medical Center Department of Pharmacy.

My first concern with the inappropriate funding relationship between the Board of Pharmacy, is with the Pharmacy Board collecting the membership fee of the ND Pharmacist Association. The Board of Pharmacy collects a \$200/year license fee from the approximately 700 pharmacists seeking a license to practice in North Dakota. As a result of previous legislation, every pharmacist license holder automatically becomes a member of the North Dakota Pharmacist Association and half of this license fee (\$100), is then passed on to the North Dakota Pharmacist Association to fund association activity. This provides approximately \$70,000 to the ND Pharmacist Association. I believe that the North Dakota Pharmacist Association should exist as any other public association, with its membership voluntarily supporting the association by choosing to join through voluntary payment of association fees. Without this option, members of the association, who might not agree with association activities, have no way of keeping the association accountable to its members.

Significant discussion of this mandatory membership issue surfaced during the last legislative session, resulting in the ND Pharmacist Association allowing members to "opt out" and receive reimbursement of the \$100 portion of the license fee that was forwarded from the pharmacy board to the association.

While this may seem a reasonable solution, a member still must take an action to "opt out" and unless the current law is changed, any licensee still remains a member of the ND Pharmacist Association even if the \$100 is refunded. Since all pharmacists must have a license to practice, and the association membership fee is included in the license fee, those pharmacists wishing not to join the association must then request a refund. This is completely backwards and unacceptable.

During discussion of this issue at last years legislative hearings, a ND Pharmaceutical Association spokesman indicated that without the current mandatory membership/fee collection process, there was a concern that the viability of the association could be jeopardized. If each pharmacist would voluntarily choose to join the association by paying \$100 directly to the association, there would be no financial impact on the association. Association membership would be compromised only if pharmacists would determine that the \$100 membership fee did not provide value and chose not to join. By

eliminating the current unusual funding mechanism, the association becomes accountable to its membership, by asking each member to write a check. Every organization, including the ND Pharmacist Association, should stand on its own merit, without funding intervention from a state board.

Another concern became reality when, in the last legislative session, the board asked for an increase which would have resulted in doubling the licensing fees, half of the increase intended for the association. While this increase was opposed by pharmacists and removed from proposed legislation, it would have effectively raised more income for the association and added to extensive board of pharmacy reserves.

My third concern about the association funding process lies in a question about the board's influence over activities of the association. The board and the association have a close working relationship and have had many worthy collaborations. However, in my opinion, the joint effort to aggressively oppose any attempt to repeal the ownership law is one example of inappropriate collaboration. Following this issue for over 20 years, I have often heard the argument from the board and the association in testimony to legislative committees, "those that control the purse strings control the policy". They use this argument to argue that if non-pharmacist owners were to own pharmacies, it would inevitably lead to inappropriate pharmaceutical care, since "those that control the purse strings, control the policy". If you accept this argument, I think it could be equally applied to the board and the association. It has been clear that the board and the association have consistently, for over 45 years, opposed the change of the ownership law. Perhaps if the board had not controlled the purse strings of the association, might the association leadership have been willing to challenge the wishes of the board?

My resolution to this problem is to eliminate these potential conflicts of interest, by prohibiting the Board of Pharmacy's collection of ND Pharmacist Association membership fees collection through the licensing process and reduce the license fee to \$100/yr, which adequately supports the pharmacy board activities. The law needs to be clarified so licensure does not automatically make you a member of the North Dakota Pharmacist Association. The qualification for membership to the Board of Pharmacy needs to eliminate the requirement that the board member be a member of the North Dakota Pharmacist Association. Pharmacists that choose not to be a member of the association should not be excluded from consideration for the board.

I support the repeal of the ownership law. I believe the ownership law has provided unfair protection to those independent and grandfathered pharmacies that have existed without competition for the last 45 years. It has limited choices of consumers that exist, in every other state. While the board has a responsibility to assure that pharmaceutical services that are available to the public, are safe, I do not believe they should actively oppose any expansion of competition.

I would hope that this discussion would lead to a recommendation to the pharmacy board, that it should prepare and provide to the next legislature, any regulations that it feels necessary to ensure public safety in preparation for removing the ownership law. These regulations could be adopted and in place prior to the change and assure that any concerns would be addressed. The reality of this request, is that it would require very little board activity, as there are already adequate safeguards in place to assure that these new pharmacies deliver the very best service possible to their patients.

An indirect result of making the board and association financially independent and removing the ownership law, would provide the North Dakota Pharmacist Association a chance to become a stronger organization. First of all, it would eliminate an issue that has fractured its membership between those who support the ownership law and those that don't. The association membership would consist of those members who have chosen to join. The association could continue to collaborate with the board, but would have the freedom to oppose those board policies that would be objectionable to its members. It would have the benefit of the resources, ideas and energy of those new pharmacists that would locate here as a result of new pharmacy practices opening in our state. Despite the association leadership activities to completely exclude a segment of our pharmacist and technician colleagues from living and working in North Dakota, let it be known that there is a significant number of rank and file members of the North Dakota Pharmacist Association that are waiting with open arms, to welcome our chain pharmacy colleagues home, and look forward to building, with their help, a united and healthy association.

Please support legislative efforts to prohibit the Board of Pharmacy collection of membership fees for the North Dakota Pharmacist Association, please support the expansion of the pharmacy board to include a pharmacy technician and citizen member, and finally, support the repeal of the pharmacy ownership law.

Respectfully,

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