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- Licensed Chiropractor in ND (and previously NC)
- Owner of Freedom Chiropractic Health Center in Fargo
- Owner of Freedom Chiropractic Health Center in Grand Forks
- Lifetime Member of the International Chiropractic Association
- President of the Association of Wellness Chiropractors
- Business co-owner of several entities in ND involving land, minerals, water and real estate
- Went to school at Williston State College, Dickinson State University, Northwestern Health Sciences University (chiropractic degree), and University of Western States (master's HNFM)
- Married with 3 children

Chairman Lefor, representatives of the Industry, Business and Labor,

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 9 years.

I am here today in opposition to SB 2060. While most of this bill is cleaning up outdated language, there are a few things that have been added that are of concern to me. The two additions I am opposing have the potential to greatly impact chiropractic in North Dakota, and not in a positive way.

The first issue I found with SB 2060 is 43-06-04.1(3). The addition to this paragraph ***"The board may impose a civil penalty not exceeding ten thousand dollars per violation as a result of the disciplinary proceedings."*** is troubling. It is also surplusage to the NDCC. This is already mentioned in the NDCC at 43-06-15.8(f)(2). The difference, however, between the two is important. If you look at 43-06-15.8(f)(2), you will see this extra part,

"...to deprive the chiropractor of any economic advantage gained by reason of the violation found and to reimburse the board for the cost of the investigation and proceedings."

In 43-06-04.1(3), the portion about depriving the chiropractor of economic advantage is missing. This, to me, means the board at their discretion, gets to impose two penalties, one to "deprive" the

chiropractor, and the other to pay the costs of the proceedings. This creates confusion in the NDCC and redundancy. I ask that the addition to 43-06-04.1(3) be removed.

I would also ask you to consider the \$10,000 amount for the limit of punishment. That is extremely harsh, considering the infractions that take place in the chiropractic profession are minor when compared to the medical profession (surgeons for example). I would recommend lowering the limit, or perhaps removing it altogether. It is highly unlikely that any chiropractor would gain \$10,000 in economic advantage for an infraction to the administrative code (improper documentation being the most common infraction). I would ask this committee not only to remove 43-06-04.1(3), but also lower the amount placed in 43-06-15.8(f)(2) to a more reasonable limit or remove the amount altogether.

The second issue with SB 2060 I found is contained in 43-06-04.1(7)(h), ***“Any other rules or regulations as may be necessary to give this chapter full force and effect.”***

As a practicing chiropractor trying to help patients, this law scares me. Why is it needed? What’s the point of enumerating 43-06-04.1(7)(a-g) if there is a law that gives the board full authority to make ANY rule it wants? Why not just remove parts a-g altogether and simply give the board the authority to make any rules it wants? That would certainly simplify the NDCC. However, it creates an opportunity for board overreach. As it stands, the board of chiropractic examiners has all the power it needs to enforce our profession. In my opinion, giving them the ability to make any rule would increase that power unnecessarily.

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