

2021 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2060

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2060
1/11/2021

Relating to the state board of chiropractic examiners and the practice of chiropractic
--

Chair Klein called the meeting to order at 9:00 a.m. All members were present.

Discussion Topics:

- Sports physicals
- Cardiovascular fitness tests
- Heart murmurs

Lisa Blanchard representing the ND State Board of Chiropractic Examiners [9:02] testified in favor.

Dr.Parag Kumar- Chairman of the ND Medical Association [9:17] testified in opposition and submitted testimony #435.

Kris Anderson, chiropractor in Grand Forks President of ND Chiropractic Practice [9:36] testified in favor and submitted testimony #425.

Krista Fremming for ND Medicaid with Department of Human Services [9:42] testified in opposition and submitted testimony #396.

Tim Blasl- President of ND Hospital Association [9:45] introduced the next presenter and submitted testimony #384.

Ben Bucher, CEO Towner Co. Medical Center [9:46] testified in opposition and submitted testimony #375.

Megan Haugen, Blue Cross Blue Shield of ND [9:59] testified in opposition.

Dawn Mattern, Physician in Minot [10:02] testified in opposition and submitted testimonies #386, #387, #388, and #389.

Additional written testimony: #427, #422, #407, #406, #399, #395, #393, #385, and #333.

Chair Klein closed the hearing at 10:05 a.m.

Gail Stanek, Committee Clerk



Senate Industry Business and Labor Committee
SB 2060
January 11, 2021

Chairman Klein and Committee Members, I am Parag Kumar. I am a Pediatric Hospitalist in Bismarck and Chairman of the ND Medical Association Commission on Socio-Economics. I present this testimony on behalf of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

NDMA opposes Section 12 of SB 2060. Section 12 would allow a licensed chiropractor to perform a preparticipation evaluation for participation in sports.

Our members are concerned that many adolescent medical issues could be missed if the preparticipation physical is not conducted by a physician or other qualified medical provider.

A good preparticipation physical includes screening for heart disease and performing a cardiovascular exam, screening for neurologic, musculoskeletal and genetic disorders that may affect an athlete's ability to safely participate in sports. This is also a time to administer vaccines, screen for mental health disorders, evaluate for risk of concussion and address the unique concerns of athletes with special needs. For many young, healthy athletes, the only time they see their physicians is during a preparticipation evaluation. We have many examples of patients coming in for a preparticipation evaluation, only to discover that they are behind on vaccinations, suffering from severe depression, or have an unaddressed medical issue such as asthma. These issues can only be adequately addressed in the traditional medical setting.

The pandemic makes these issues even more important.

1. Due to the pandemic, there has been a significant increase in mental health issues for our population, including adolescents.

2. Due to potential cardiac complications of coronavirus, the American Academy of Pediatrics has published guidelines for more complex evaluation before return to play. Given the large rate of asymptomatic cases, consideration for whether this additional evaluation needs to be done must be given during all sports physicals this year, with understanding and ability to perform this evaluation, interpret the results, and provide appropriate recommendations for those who require it. Missing a cardiac complication in a youth returning to sports could be a fatal mistake.
3. Due to delay in seeking care associated with the pandemic, some North Dakota adolescents are behind in their immunizations. Chiropractors performing sports physicals will either lead to parents needing to make another visit for their child/adolescent to be immunized or children remaining under immunized. Neither of these options seems to be in the best interest of North Dakotan children and families.

Based on these concerns, we would propose an amendment that would remove Section 12 from SB 2060 and renumber the remaining sections.

Thank you for the opportunity to testify today. I would be happy to answer any questions.

Parag Kumar, MD, FAAP

paragkumar@gmail.com

Cell: 701-226-1064

January 11, 2021

Dear Chairman Klein, Vice Chairman Larsen, and members of the Senate Industry, Business and Labor Committee,

My name is Kris Anderson, and I am a chiropractor in Grand Forks. I have a private practice, and I also work for Spectra Health Community Health Center, where I see patients part-time. I am testifying in my role as the ND Chiropractic Association president in support of SB 2060.

The ND State Board of Chiropractic Examiners has undertaken a significant effort to clarify the scope of practice of chiropractic in ND and simplify the explanation of the work they do to protect the public interest as it relates to the practice of chiropractic in ND. We support their approach to bring clarity and simplicity to their work, which is in addition to recent similar updates to the administrative rules.

Calling your attention to two provisions that are most relevant to our work as the voice for the profession in ND, my final comments relate to the addition of the definition of telehealth (43-06-01.5) and the addition of preparticipation physicals to the duties of chiropractors (43-06-16.2). By including the definition of telehealth, the scope now more clearly defines how chiropractors interact with patients using telehealth. Including telehealth is clarifying for the "health care provider" definitions from the "coverage of telehealth" section of the ND Century Code (26.1 - 36 - 09.15). Including preparticipation physicals is additionally clarifying because it makes it clear from the "practice of chiropractic" (43-06-01.4) that chiropractors perform "examination, evaluation, and diagnosis" that is consistent with preparticipation physicals. Chiropractors have significant didactic and clinical training in our degree programs and already contribute to similar programs such as performing DOT medical certificate physicals.

Thank you for your work to consider SB 2060. We believe it will make significant and important updates to the chiropractic scope of practice. Coupled with the recent updates and clarifications to the administrative rules, we believe SB 2060 will improve the work done by the board of examiners to represent the public interests related to the practice of chiropractic in ND.

Sincerely,

Kris R Anderson, DC, MS
President, ND Chiropractic Association
ndca.pres@gmail.com
563-449-2702

Testimony
Senate Bill 2089 – Department of Human Services
Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chairman
January 11, 2021

Chairman Klein, members of the Senate Human Services Committee, I am Krista Fremming, Assistant Director of the Medical Services Division, for the Department of Human Services (Department). I am here today to provide testimony on Senate Bill 2060.

The Department is opposed to Senate Bill 2060 as it is currently written due to the addition of a definition for telehealth in section 1. It is unclear why this definition is being added, as telehealth is not addressed in other sections of the bill nor in North Dakota Century Code Chapter 43-06, which governs the practice of chiropractors in the state.

North Dakota Medicaid does not cover chiropractic care that is delivered via telehealth. The Department has concerns that if the definition of chiropractic telehealth is added to North Dakota Century Code, it could be interpreted to mean that North Dakota Medicaid must reimburse chiropractors for services delivered via telehealth as well. Through the regulatory process, the Department publishes which services can be delivered and reimbursed through telehealth. In its traditional Medicaid program, the Department pays parity, meaning that telehealth services are paid at the same reimbursement levels as services delivered in person. Part of the rationale for payment parity is the assumption that

services delivered via telehealth must be of an amount and nature that would be sufficient to meet the key components and/or requirements of the same service when rendered via a face-to-face interaction. For this reason, the Department does not cover telehealth chiropractic services.

At the request of the committee, the Department can also offer an amendment that would clarify that this bill does not apply to North Dakota Medicaid.

I would be happy to answer any questions that you may have.



2021 Senate Bill 2060
Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chairman
January 11, 2021

Chairman Klein and members of the Senate Industry, Business and Labor Committee, I am Tim Blasl, President of the North Dakota Hospital Association (NDHA). I am here to testify in opposition to 2021 Senate Bill 2060. I ask that you give this bill a **Do Not Pass** recommendation.

Our member hospitals have concerns with section 12 of the bill, which would allow chiropractors to perform sports physicals. To discuss these concerns, I would like to introduce one of our hospital members, Ben Bucher, CEO, Towner County Medical Center in Cando, North Dakota. In addition to being the CEO, Mr. Bucher is also a licensed Family Nurse Practitioner board certified in family medicine who sees patients at Towner County Medical Center. He is better able to explain the reasons why it is so important that a child seeking a sports physical receive a full and thorough medical history and physical/psychological examination from an appropriate provider.

Thank you. I would be happy to address any questions you may have.

Respectfully Submitted,

Tim Blasl, President
North Dakota Hospital Association

2021 SB 2060**Senate Industry, Business and Labor Committee****Senator Jerry Klein, Chairman****January 11, 2021**

Chairman Klein and members of the Senate Industry, Business and Labor Committee, I am Ben Bucher, CEO, Towner County Medical Center in Cando, North Dakota. I am here to testify in opposition to Senate Bill no. 2060. I ask that you give this bill a **Do Not Pass** recommendation.

In addition to being the CEO at Town County Medical Center, I am also a licensed Family Nurse Practitioner board certified in family medicine. I provide specialty care in treatment of chronic diseases such as diabetes and cardiovascular disease. My concern is with section 12 of the bill which would allow a licensed chiropractor to perform a preparticipation evaluation for participation in sports.

I want to start by saying chiropractors play an important role in health care delivery system for our patients. The chiropractic profession is a well-respected profession. Clearly chiropractors are experts in the diagnosis and treatment of musculoskeletal issues. I personally receive routine care from my local chiropractor at Towner County Medical Center. My opposition to this bill starts with all of the other systems besides the musculoskeletal system that are involved with a high school sports physical.

The ND high school sports physical starts with a review of past medical history, surgeries, medications, and allergies. Based on this information, the clinician needs to assess if any of the athletes' past medical history, surgeries, or current medications will put them at risk of an athletic injury. Does a chiropractor have full pharmacological and medical knowledge to be able to assess this?

Next the form asks the provider to screen for depression and/or anxiety. This is done with a PHQ-4 questionnaire (Patient Health Questionnaire). Do chiropractors have the training to recognize and diagnose behavioral health issues?

The history portion of the exam continues with a focus on the athlete's cardiac history. Several family history questions are combined with current symptoms the athlete may be experiencing that may be related to an undiagnosed cardiac condition. An undiagnosed cardiac condition, more specifically hypertrophic cardiomyopathy, is the greatest risk for sudden death

for high school athletes. In fact, we see this every year across the United States. If you've ever heard of a basketball player suddenly collapsing on the floor and dying, the likely cause was undiagnosed hypertrophic cardiomyopathy. The full cardiothoracic history is then combined with a physical examination of the cardiothoracic system. This includes listening to lungs sounds for the presence of clear bilateral lungs sounds, wheezes, rhonchi, or stridor, just to name a few sounds that may be heard. Does a chiropractor have the training to know what step is next or what is meant if any of these sounds are auscultated on a pulmonary examination? During the cardiovascular examination, the clinician first listens for appropriate heart rate and rhythm. Is there an underlying arrhythmia that may reveal a cardiac condition? Next the clinician assesses for appropriate heart sounds. Is there the presence of a murmur, a friction rub, or a gallop? If a murmur is present, the type of murmur needs to be assessed. This could mean a systolic murmur or a diastolic murmur and the severity of the murmur needs to be measured. Some murmurs are benign and will have no impact on the athlete's performance. Other murmurs, if not correctly identified, can result in serious injury or even death if undetected. At the conclusion of the cardiothoracic examination, if the clinician feels as though more tests need to be performed to assess if the athlete is in appropriate health to compete in sports, an EKG and an echocardiogram may be ordered. The EKG should be interpreted by the ordering clinician. My question here is if a chiropractor has been trained to perform a full cardiothoracic examination and trained to identify all of the issues I've just discussed; able to decipher various types of heart sounds, tones, rhythms, murmurs and what these findings mean. Furthermore, if needed, is a chiropractor able to order an EKG? Are they trained to interpret an EKG? Are they able to order an echocardiogram and make a decision of the athlete's ability to compete in sports safely based on the results of this echocardiogram?

I don't intend to continue to explain the entire assessment that is included in a sports physical in such fine detail, but I would like to list a few more health systems that are included in the sports physical that need to be assessed by an appropriately trained clinician. Other systems that need to be assessed include: Head, Eyes, Ears, Nose, Throat, Hearing, Lymph node assessment, Abdomen, Neurological, and Skin. You may have known a high school athlete that was prevented from participating in sports because they were diagnosed with mono during their sports physical. The athlete did not know they had mono going into the examination, they likely had no symptoms of mono. However, the mono was diagnosed during the examination based on physical findings and confirmed via blood tests. Are chiropractors able to order laboratory blood tests based on physical examination findings? Another important system I listed was skin. I'm not sure of the training chiropractors have with dermatology. Perhaps you've heard of a high school wrestler who could not compete in sports due to ring worm. This ringworm, or fungal skin infection was discovered during the physical examination portion of the sports physical. If undetected, ringworm is highly contagious, and in a sport such as

wrestling, it's not hard to imagine how quickly this skin condition would spread. Thankfully, the treatment of ringworm is quite simple; the clinician would order a topical or oral anti-fungal medication. Even if a chiropractor were able to detect this skin condition, would they be able to order the appropriate medications to treat it?

While I understand not all skin conditions are contagious and a small rash may not stop the athlete from competing, unfortunately, too many parents treat the annual sports physical as the child's annual physical. Ideally the sports physical should be in addition to a child's annual wellness visit or annual physical. We may only see this child in our clinic one time per year, as most children this age are in good health. This is why it is even more imperative that the child receive a full and thorough medical history and physical/psychological examination from an appropriate family practice provider. This may be our only chance to identify an undiagnosed condition.

Thank you. I would be happy to address any questions you may have.

Respectfully Submitted,

Ben Bucher, CEO
Towner County Medical Center

■ PREPARTICIPATION PHYSICAL EVALUATION

HISTORY FORM

Note: Complete and sign this form (with your parents if younger than 18) before your appointment.

Name: _____ Date of birth: _____

Date of examination: _____ Sport(s): _____

Sex assigned at birth (F, M, or intersex): _____ How do you identify your gender? (F, M, or other): _____

List past and current medical conditions. _____

Have you ever had surgery? If yes, list all past surgical procedures. _____

Medicines and supplements: List all current prescriptions, over-the-counter medicines, and supplements (herbal and nutritional). _____

Do you have any allergies? If yes, please list all your allergies (ie, medicines, pollens, food, stinging insects). _____

Patient Health Questionnaire Version 4 (PHQ-4)

Over the last 2 weeks, how often have you been bothered by any of the following problems? (Circle response.)

	Not at all	Several days	Over half the days	Nearly every day
Feeling nervous, anxious, or on edge	0	1	2	3
Not being able to stop or control worrying	0	1	2	3
Little interest or pleasure in doing things	0	1	2	3
Feeling down, depressed, or hopeless	0	1	2	3

(A sum of ≥ 3 is considered positive on either subscale [questions 1 and 2, or questions 3 and 4] for screening purposes.)

GENERAL QUESTIONS (Explain "Yes" answers at the end of this form. Circle questions if you don't know the answer.)		
	Yes	No
1. Do you have any concerns that you would like to discuss with your provider?		
2. Has a provider ever denied or restricted your participation in sports for any reason?		
3. Do you have any ongoing medical issues or recent illness?		
HEART HEALTH QUESTIONS ABOUT YOU		
	Yes	No
4. Have you ever passed out or nearly passed out during or after exercise?		
5. Have you ever had discomfort, pain, tightness, or pressure in your chest during exercise?		
6. Does your heart ever race, flutter in your chest, or skip beats (irregular beats) during exercise?		
7. Has a doctor ever told you that you have any heart problems?		
8. Has a doctor ever requested a test for your heart? For example, electrocardiography (ECG) or echocardiography.		

HEART HEALTH QUESTIONS ABOUT YOU (CONTINUED)		
	Yes	No
9. Do you get light-headed or feel shorter of breath than your friends during exercise?		
10. Have you ever had a seizure?		
HEART HEALTH QUESTIONS ABOUT YOUR FAMILY		
	Yes	No
11. Has any family member or relative died of heart problems or had an unexpected or unexplained sudden death before age 35 years (including drowning or unexplained car crash)?		
12. Does anyone in your family have a genetic heart problem such as hypertrophic cardiomyopathy (HCM), Marfan syndrome, arrhythmogenic right ventricular cardiomyopathy (ARVC), long QT syndrome (LQTS), short QT syndrome (SQTS), Brugada syndrome, or catecholaminergic polymorphic ventricular tachycardia (CPVT)?		
13. Has anyone in your family had a pacemaker or an implanted defibrillator before age 35?		

■ PREPARTICIPATION PHYSICAL EVALUATION

MEDICAL ELIGIBILITY FORM

Name: _____ Date of birth: _____

☐ Medically eligible for all sports without restriction

☐ Medically eligible for all sports without restriction with recommendations for further evaluation or treatment of

☐ Medically eligible for certain sports

☐ Not medically eligible pending further evaluation

☐ Not medically eligible for any sports

Recommendations: _____

I have examined the student named on this form and completed the preparticipation physical evaluation. The athlete does not have apparent clinical contraindications to practice and can participate in the sport(s) as outlined on this form. A copy of the physical examination findings are on record in my office and can be made available to the school at the request of the parents. If conditions arise after the athlete has been cleared for participation, the physician may rescind the medical eligibility until the problem is resolved and the potential consequences are completely explained to the athlete (and parents or guardians).

Name of health care professional (print or type): _____ Date: _____

Address: _____ Phone: _____

Signature of health care professional: _____, MD, DO, NP, or PA

SHARED EMERGENCY INFORMATION

Allergies: _____

Medications: _____

Other information: _____

Emergency contacts: _____

Senate Industry Business and Labor Committee
January 11, 2021

Chairman Klein and members of the committee:

My name is Dawn Mattern and I am a sports medicine and family physician in Minot. I completed a family medicine residency in Minot and a sports medicine fellowship at The Ohio State University. I am testifying in opposition to Senate Bill 2060 Section 12 which amends the Century Code to allow chiropractors to perform the preparticipation evaluation for participation in sports.

The American Academy of Pediatrics, along with the American Academy of Family Physicians, American College of Sports Medicine, American Medical Society for Sports Medicine, American Orthopaedic Society for Sports Medicine, and the American Osteopathic Academy of Sports Medicine, has published recommendations and guidance for the Preparticipation Physical Evaluation, currently in its 5th Edition. The purpose of the PPE is to facilitate and encourage safe participation, not to exclude athletes from participation. The Goals of the PPE are listed as:

1. Determine the general physical and psychological health
2. Evaluate for conditions that may be life-threatening or disabling
3. Evaluate for conditions that may predispose to injury or illness
4. Provide an opportunity for discussion of health and lifestyle issues
5. Serve as an entry point into the health care system for adolescents without a health care home or medical home

The PPE authors state that the exam should be completed by a physician (MD or DO), an NP, or a PA. State regulations ultimately determine who performs the evaluations at the high school level thru respective Activities Associations. The PPE is best performed in the setting of the primary medical home, by a provider who knows the athlete well or has access to a comprehensive medical history.

61% of sudden cardiac death in athletes occurs in the high school age group. Paramount to the PPE is recognition of cardiac symptoms and proper evaluation of the cardiovascular system.

Sport related concussion is common and requires proper neurological evaluation.

Rising rates of childhood obesity and diabetes requires lifestyle and proper endocrine evaluation.

A pandemic caused by a virus requires prevention of other viral illnesses and immunization recommendations.

Chiropractors are musculoskeletal specialists. With a 2016 comparison of educations, chiropractors receive 4,200 hours in classroom, lab settings, and clinicals. A medical doctor receives at a minimum, 10,000 hours, in patient evaluation and care alone.

After evaluation, decisions regarding clearance require a clear understanding of the pathophysiology of the disease or injury as well as the effects of exercise and competition. Any medications must also be evaluated for effects that may compromise safety with participation.

The PPE requires a medical evaluation by a medical provider.

I encourage you to oppose Section 12 of Senate Bill 2060.

Respectfully,
Dawn Mattern MD
Chair, NDHSAA Sports Medicine Advisory Committee

References:

Preparticipation physical evaluation, 5th edition. American Academy of Pediatrics; 2019.

Peterson DF, Kucera K, Thomas LC, et al. Aetiology and incidence of sudden cardiac arrest and death in young competitive athletes in the USA: a 4 year prospective study. Br J Sports Med 2020;0:1-9.

■ PREPARTICIPATION PHYSICAL EVALUATION

PHYSICAL EXAMINATION FORM

Name: _____ Date of birth: _____

PHYSICIAN REMINDERS

- Consider additional questions on more-sensitive issues.
 - Do you feel stressed out or under a lot of pressure?
 - Do you ever feel sad, hopeless, depressed, or anxious?
 - Do you feel safe at your home or residence?
 - Have you ever tried cigarettes, e-cigarettes, chewing tobacco, snuff, or dip?
 - During the past 30 days, did you use chewing tobacco, snuff, or dip?
 - Do you drink alcohol or use any other drugs?
 - Have you ever taken anabolic steroids or used any other performance-enhancing supplement?
 - Have you ever taken any supplements to help you gain or lose weight or improve your performance?
 - Do you wear a seat belt, use a helmet, and use condoms?
- Consider reviewing questions on cardiovascular symptoms (Q4–Q13 of History Form).

EXAMINATION		
Height: _____	Weight: _____	
BP: _____ / _____ (_____ / _____)	Pulse: _____	Vision: R 20/ _____ L 20/ _____ Corrected: <input type="checkbox"/> Y <input type="checkbox"/> N
MEDICAL	NORMAL	ABNORMAL FINDINGS
Appearance <ul style="list-style-type: none"> Marfan stigmata (kyphoscoliosis, high-arched palate, pectus excavatum, arachnodactyly, hyperlaxity, myopia, mitral valve prolapse [MVP], and aortic insufficiency) 		
Eyes, ears, nose, and throat <ul style="list-style-type: none"> Pupils equal Hearing 		
Lymph nodes		
Heart ^a <ul style="list-style-type: none"> Murmurs (auscultation standing, auscultation supine, and ± Valsalva maneuver) 		
Lungs		
Abdomen		
Skin <ul style="list-style-type: none"> Herpes simplex virus (HSV), lesions suggestive of methicillin-resistant <i>Staphylococcus aureus</i> (MRSA), or tinea corporis 		
Neurological		
MUSCULOSKELETAL	NORMAL	ABNORMAL FINDINGS
Neck		
Back		
Shoulder and arm		
Elbow and forearm		
Wrist, hand, and fingers		
Hip and thigh		
Knee		
Leg and ankle		
Foot and toes		
Functional <ul style="list-style-type: none"> Double-leg squat test, single-leg squat test, and box drop or step drop test 		

^a Consider electrocardiography (ECG), echocardiography, referral to a cardiologist for abnormal cardiac history or examination findings, or a combination of those.

Name of health care professional (print or type): _____ Date: _____

Address: _____ Phone: _____

Signature of health care professional: _____, MD, DO, NP, or PA

Testimony
SB 2060
Industry, Business, and Labor Committee
January 11, 2021

Chair Klein and members of the Committee,

I am the State Director of External Affairs for Planned Parenthood North Central States. Thank you for the opportunity to submit testimony in opposition to SB 2060, specifically the ability to deny a chiropractic license because the applicant was previously “engaged in the practice of abortion.”

Planned Parenthood provides health services, advocacy, and education including expert reproductive health care for more than 100,000 patients each year across our five-state region. 60% of patients at our Moorhead clinic are residents of North Dakota. We have tens of thousands of activists and supporters throughout the state including interns located at major college campuses in the state. Our education team reaches more than 500 people each year through programming, trainings, and community presentations. Planned Parenthood is here to ensure all people have the information and the means to make free and responsible decisions about whether and when to have children; our mission affirms human rights to reproductive health care and freedom.

If approved, SB 2060 would limit job prospects and career advancement for residents of North Dakota and those considering a move to this state. This bill would now allow the board to deny an application for a chiropractor’s license simply because the applicant was previously “engaged in the practice of abortion.” The language in this provision is vague and overbroad, and could prevent nurses, interns, doulas, or other clinic volunteers from seeking licensure as a chiropractor. Furthermore, this bill could limit the pool of potential chiropractors by impeding people who worked or were otherwise involved with reproductive health clinics or hospitals in other states from obtaining a chiropractor’s license.

Whether a person was involved with the provision of abortion has no bearing on their ability to serve as a qualified chiropractor. But this bill ignores that fact and would limit professional opportunities for those who were previously involved in providing necessary, comprehensive reproductive health care.

The Planned Parenthood Action Fund urges the Committee to remove page 10, line 3: “engaged in the practice of abortion” from the grounds for “denial of licensure, revocation, or suspension of license or other action of the board” found in Section 43-06-15 of the North Dakota Century Code. Thank you.

Katie Christensen
kchristensen@ppncs.org
701.388.7369



NDSBA
NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION

P.O. Box 7128
Bismarck ND 58507-7128
1-800-932-8791 • (701)255-4127
www.ndsba.org

SB 2060

**Testimony of Alexis Baxley
Senate Industry, Business, and Labor
January 11, 2021**

Good morning Chairman Klein and members of the Industry, Business, and Labor committee. My name is Alexis Baxley, and I serve as the executive director of the North Dakota School Boards Association. NDSBA represents the elected school boards of all 175 public school districts and several special education units in North Dakota.

NDSBA stands in opposition to SB 2060. Like Dr. Mullaly, Dr. Mattern, the North Dakota High School Activities Association, we have concerns about the missed opportunities that would occur if a licensed chiropractor were eligible to perform sports physical for K-12 student athletes.

NDSBA urges you to give SB 2060 a do not pass recommendation. Thank you.

Dear North Dakota Legislators:

We oppose Section 12 of Senate Bill 2060, which changes the North Dakota Century Code Section 43-06-16 to state, “A licensed chiropractor practicing in this state may perform a preparticipation evaluation for participation in sports.” Chiropractors do not have the comprehensive medical training to provide the wrap-around care required in a primary care preparticipation evaluation, and the toll to increase the scope of work for chiropractors should not be a child’s life.

A good preparticipation evaluation screens athletes for life-threatening conditions and conditions that may lead to injury or illness. One of the most important components of this exam is screening for heart disease and performing a cardiovascular exam. This identifies factors that may put an athlete at increased risk for sudden cardiac death. Evaluation for risk of heart disease is even more essential in our post-pandemic world, as inflammation of the heart musculature (myocarditis) is a known effect of COVID-19, and can be fatal in even young, healthy, athletes. Chiropractors are not trained to evaluate and manage conditions of the heart.

Beyond heart disease, a good preparticipation physical includes screening for neurologic, musculoskeletal and genetic disorders that may affect an athlete’s ability to safely participate in sports. This is also a time to administer vaccines, screen for mental health disorders, evaluate for risk of concussion, and address the unique concerns of athletes with special needs. For many young, healthy athletes, the only time they see their physicians is during a preparticipation evaluation. We have many examples of patients coming in for a preparticipation evaluation, only to discover that they are behind on vaccinations, suffering from severe depression, or have an unaddressed medical issue such as asthma. These issues can only be adequately addressed in the traditional medical setting, not a chiropractor’s office.

A preparticipation evaluation is best provided by a pediatrician, family physician or specially trained Advanced Practice Provider. For the safety and multifaceted healthcare needs of the children of North Dakota, chiropractors should not perform preparticipation sports physicals.

Sincerely,

Jennifer Mullally, MD
 Rebecca J Bakke, MD
 Brenda Thurlow, MD
 Melissa Kunkel, MD
 Tracie Newman, MD, MPH
 Brandon Meyer, MD
 Bonnie Kvistad, MD
 Samantha Perleberg, MD
 Jess Belling, MD
 Stephanie Antony, MD
 Melissa Horner, MD
 Natalie Dvorak, MD
 Molly Linn, DO
 Kari Casas, MD
 Alex Thompson, MD
 Chris Tiongson, MD
 Kathryn Obregon, MD

Amanda Oney, CPNP
 Lidia Krasniewska, MD
 Joan Connel, MD, MPH
 Parag Kumar, MD
 Stephen McDonough, MD
 Michele Pasierb, MD
 Brennan Forward, MD
 Maria Weller, MD
 Carrie Ann Ranum, MD
 Thomas Carver, DO
 Nabeel Manzar, MD
 Jacob Fish, MD
 Lisa Kozel, MD
 Justin Horner, MD
 Elizabeth Osowski, CPNP
 Amy Oksa, MD
 Luis Casas, MD

Stephanie Hanson, MD
 Sarah Paur, APRN, CPNP
 Erica Sauer, MD
 Barbara Bentz, MD
 Vanessa Nelson, MD
 Melissa Seibel, MD
 Grant Syverson, MD
 Julie Erpelding, MD
 Brennan Forward, MD
 Kristina Rauser-Foltz, MD
 Kurt Kooyer, MD
 Sara Reinke, MD
 Christina daSilva, MD
 Kamilla Lucht, MD
 Sarah Lien, MD
 Alison Hornyak, DO

Testimony in regards to relating to the state board of chiropractic examiners and the practice of chiropractic.

My name is Paula Ayers and I have been a school nurse for Bismarck Public Schools for 8 years. I'm writing regarding the proposed addition to the duties of a chiropractor for the state of North Dakota, Section 12, 43-06-16, Duties of Chiropractor, Number 2 and 3, which states:

2. A licensed chiropractor practicing in this state may perform a preparticipation evaluation for participation in sports.

3. All certificates signed by a chiropractor licensed to practice in this state are of the same force and effect as those signed by other licensed physicians.

According to the said bill written under Section 1, 43-06-01, Definitions, Numbers 1-5, it is not written for a chiropractor to diagnose or prescribe treatment for chronic, childhood diseases such as asthma, anaphylaxis, heart conditions, seizures, etc. Under Definitions Number 2, it is written:

The treatment of patients by means of the adjustment or manipulation of the spinal column, the vertebral articulations, the appendicular skeleton not excluding the skull, and of any displaced tissue of any kind or nature.

Therefore, it is my strong opinion that a chiropractor is not qualified to evaluate a student for sport participation. They do not practice diagnosing or treating students with such medical conditions therefore, they are not qualified to approve sports physicals for students.

I feel strongly about this since receiving a written letter from a ND chiropractor diagnosing a student with a disease of the lungs. Chiropractors have no access to labs to diagnose such a disease, nor are they able to prescribe medication to treat it. This type of behavior is clearly not within a chiropractor's scope of practice yet they are pushing for it to be so. It is dishonorable to the actual medical physicians who have been educated and trained to treat human physiological diseases, prescribe natural and/or chemical treatment, and who have knowledge of each body system (skeletal, nervous, muscular, respiratory, endocrine, immune, cardiovascular/circulatory, urinary, integumentary, reproductive, and digestive), unlike that of a chiropractor.

Please vote against this bill. Passing it would put students with underlying health conditions at risk.

Thank you.

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2060

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Chiropractic Examiners)

1 A BILL for an Act to amend and reenact sections 43-06-01, 43-06-02, 43-06-04, 43-06-04.1,
2 43-06-05, 43-06-08, 43-06-09, 43-06-10.1, 43-06-11, 43-06-13, 43-06-15, 43-06-16, 43-06-16.1,
3 and 43-06-18 of the North Dakota Century Code, relating to the state board of chiropractic
4 examiners and the practice of chiropractic; and to repeal sections 43-06-10 and 43-06-12 of the
5 North Dakota Century Code, relating to the state board of chiropractic examiners and the
6 practice of chiropractic.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 43-06-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-06-01. Definitions.**

11 In this chapter, unless the context or subject matter otherwise requires:

- 12 1. "Approved and accredited doctor of chiropractic program" means a doctor of
13 chiropractic program approved by the board and accredited by a board-approved
14 entity, such as the council on chiropractic education or its successor or equivalent.
- 15 2. "Board" means the state board of chiropractic examiners.
- 16 ~~2.3.~~ "Certified chiropractic clinical assistant" means an individual certified by the board who
17 in accordance with section 43-06-16.1 assists with basic health care duties in the
18 practice of chiropractic under the supervision of a licensed doctor of chiropractic in
19 good standing with the board.
- 20 ~~3.4.~~ a. "The practice of chiropractic" includes:
- 21 (1) The examination, evaluation, and diagnosis by means including x-ray, other
22 appropriate diagnostic imaging, clinical laboratory procedures, or pertinent
23 examinations taught by chiropractic colleges accredited by the council on
24 chiropractic education or its successor or equivalent;

(2) The treatment of patients by means of the adjustment or manipulation of the spinal column, the vertebral articulations, the appendicular skeleton not excluding the skull, and of any displaced tissue of any kind or nature;

(3) The practice of physiotherapy, electrotherapy, or hydrotherapy;

(4) All other procedures, treatments, and interventions taught by chiropractic colleges accredited by the council on chiropractic education or its successor;

(5) The rating and reporting of any permanent impairment of function and the providing of professional opinions regarding any matter included in this definition of practice of chiropractic as set out herein; and

(6) Delegation of basic health care duties in the practice of chiropractic to a certified chiropractic clinical assistant.

b. The practice of chiropractic does not include prescribing for, removal of, or administering to any person any medicine or drug to be taken internally which is now or hereafter included in materia medica, nor performing any surgery, except as is provided in this section, nor practicing obstetrics.

5. "Telehealth" means the use of electronic communications to provide and deliver chiropractic related information and chiropractic services, including chiropractic related information and services, over any distance. Telehealth encompasses chiropractic care and chiropractic promotion activities, including education, advice, reminders, interventions, and the monitoring of interventions.

SECTION 2. AMENDMENT. Section 43-06-02 of the North Dakota Century Code is amended and reenacted as follows:

43-06-02. Who exempt from the provisions of this chapter.

This chapter does not apply to:

1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.
2. ~~Students duly enrolled in a college of chiropractic approved and accredited by the council on chiropractic education, or its successor or equivalent, who have completed chiropractic studies and who are continuing their training under a preceptorship program and performing the duties of an intern under the supervision of a chiropractor~~

1 licensed in the state of North Dakota who has received approval to supervise such-
2 internship by the board and said students having received approval to participate in-
3 such internship by the board and by the chiropractic college or university.

4 3. ~~A graduate of any approved and accredited college of chiropractic who has for the first~~
5 ~~time made application for license by examination to practice chiropractic in the state of~~
6 ~~North Dakota, and who, under the supervision of a North Dakota licensed chiropractor,~~
7 ~~performs the duties of an intern, provided that a supervising chiropractor has certified~~
8 ~~to the board that the graduate is of good character and competent chiropractic ability.~~
9 Thenrolled in an approved and accredited doctor of chiropractic program, who qualify
10 for the preceptorship program. Under this exception:

11 a. The student shall perform the duties of an intern under the supervision of a
12 chiropractor licensed in the state of North Dakota.

13 b. The student and the licensed chiropractor shall meet the requirements
14 established for the preceptorship by an approved and accredited doctor of
15 chiropractic program and must be approved by the program and by the board.

16 3. A graduate of a program who has not completed the examination requirements in
17 section 43-06-10.1 who applies for a graduate internship under this exception:

18 a. The graduate, under the supervision of a North Dakota licensed chiropractor,
19 shall perform the duties of an intern.

20 b. The graduate shall submit an initial application for North Dakota licensure.

21 c. The graduate must be sponsored by a chiropractor with a current and valid North
22 Dakota license in good standing, including no active complaints, with at least
23 three years of experience.

24 d. The graduate and the license holder shall provide proof of malpractice insurance.

25 e. The graduate intern authorization granted by the board terminates within fifteen
26 months from the date issued by the board.

27 4. Nothing in this chapter is to be construed to impinge upon the practice of medicine by
28 a physician and surgeon or an osteopathic physician and surgeon who has adequate
29 training in the use of manipulative and adjustive procedures of the spine and
30 appendicular skeleton.

5. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is teaching, demonstrating, or providing chiropractic in connection with teaching or participating in an educational seminar in the state for no more than sixty days in a calendar year.

6. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is practicing chiropractic in North Dakota as a member of the health care team for a sports, cultural, or performing arts group. Treatment may only be performed on members of the team or group the chiropractor is traveling with, for no more than sixty days in a calendar year.

SECTION 3. AMENDMENT. Section 43-06-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. 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 only one term expires on the thirty-first day of August of any year 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~~One year 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. Vacancies on the board must be filled by appointment by the governor.

SECTION 4. AMENDMENT. Section 43-06-04.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-04.1. Powers and duties of board.

1. The board shall administer the provisions of this chapter and the administrative rules of the board relating to the practice of chiropractic. ~~†The board~~ has all powers, rights, and duties as provided in chapter 28-32.

- 1 2. The board shall verify the qualifications of applicants for licenses to practice
2 chiropractic and of applicants for certification to practice as a certified chiropractic
3 clinical assistant. ~~§~~The board shall examine and renew the licenses or certification of
4 duly qualified applicants.
- 5 3. The board shall regulate the practice of chiropractic and shall enforce the provisions of
6 this chapter and the rules of the board. The board shall investigate complaints of
7 violations and cause the prosecution of persons violating the provisions of this chapter
8 or the administrative rules of the board. The board may impose a civil penalty not
9 exceeding ten thousand dollars per violation as a result of the disciplinary
10 proceedings.
- 11 4. The board may appoint a peer review committee and employ ~~such~~ personnel and
12 incur ~~such~~ expenses as may be necessary for the performance of the board's duties
13 and the enforcement of this chapter.
- 14 5. The board may inspect upon probable cause, at all reasonable times, any chiropractic
15 office or place where chiropractic services are performed.
- 16 6. The board may set fees for licensure and renewal.
- 17 7. The board may adopt and amend ~~administrative rules and regulations~~, consistent with
18 ~~the provisions of~~ this chapter governing the practice of chiropractic and the diagnosis
19 and treatment of patients, the enforcement of this chapter, and proper performance of
20 ~~its~~the board's duties, including:
 - 21 a. A code of ethical conduct governing the practice of chiropractic.
 - 22 b. Requirements, standards, and examinations to determine the intellectual,
23 educational, scientific, technical, and professional qualifications of applicants for
24 license or certification.
 - 25 c. Matters pertaining to the content and conduct of examination.
 - 26 d. Matters pertaining to the operation and registration of chiropractic facilities.
 - 27 e. Matters pertaining to the practice and certification of chiropractic specialties by
28 licensed doctors of chiropractic.
 - 29 f. The quantity, type, and character of postgraduate study to be done by any
30 licensee in order to comply with ~~the provisions of~~ this chapter.

1 g. Set policies and procedures on what constitutes professional or unprofessional
2 conduct.

3 h. Any other rules or regulations as may be necessary to give this chapter full force
4 and effect.

5 **SECTION 5. AMENDMENT.** Section 43-06-05 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal**
8 **- Compensation - Expenses - How paid.**

9 The board shall hold regular meetings twice yearly at approximate six-month intervals and
10 such special meetings as ~~if~~the board may deem necessary. The meetings shallmust be held at
11 such places as the board may designate. ~~Three~~Four members of the board constitute a
12 quorum. At the first meeting of the board of each calendar year, the members of the board shall
13 elect from their membership a president, vice president, and secretary-treasurer. Each shall
14 hold office for one year and until a successor is elected and qualified. The board shall have a
15 seal and may adopt appropriate rules necessary to carry out the provisions of this chapter. A
16 member of the board shall receive compensation in an amount to be fixed by regulation of the
17 board for each day or portion thereof of a day spent in the discharge of duties, such mileage as
18 is provided by section 54-06-09, and must be reimbursed for actual and necessary expenses
19 incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the
20 compensation, expenses, and mileage, the secretary-treasurer of the board is entitled to
21 receive such salary as must be fixed by a resolution of the board adopted at a regular meeting.

22 **SECTION 6. AMENDMENT.** Section 43-06-08 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-06-08. License required - Application - Examination required - Fee.**

25 ~~No~~A person may not practice chiropractic in this state unless that person has a license from
26 the state board of chiropractic examiners. ~~Any~~A person who desires a license shall ~~apply to the~~
27 ~~board and submit to an examination. Each applicant shall present with the application a diploma~~
28 ~~from a college of chiropractic accredited by the council on chiropractic education or its~~
29 ~~successor or equivalent, or a photocopy of the same, or a certificate from the college stating~~
30 ~~that the applicant is a student in good standing in the student's last trimester, and proof that the~~
31 ~~applicant has the required qualifications. The board may allow an applicant to take the~~

1 ~~examination during the period that the applicant is attending the applicant's last trimester but~~
2 ~~may not issue a license until the applicant has graduated and has provided the board with a~~
3 ~~diploma as provided in this section. Before beginning the examination, the applicant shall pay:~~

4 1. Apply to the board;

5 2. Submit an official transcript of successful completion of all required examinations;

6 3. Submit an official transcript and diploma from an approved and accredited doctor of
7 chiropractic program. The applicant may submit an application while the applicant is
8 enrolled in the applicant's last term but the board may not issue a license until the
9 applicant has graduated and has provided the board with an official transcript and
10 diploma as provided in this section; and

11 4. Pay to the board a fee, to be determined by the board from time to time, of an amount
12 not to exceed five hundred dollars.

13 **SECTION 7. AMENDMENT.** Section 43-06-09 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-06-09. Chiropractor - Qualifications.**

16 An applicant for ~~examination~~licensure to practice chiropractic in this state ~~shall~~must have a
17 degree ~~from~~ or a certificate proving enrollment~~be enrolled~~ in the last ~~trimester~~term of college
18 ~~received from~~at an approved and accredited college of chiropractic. ~~An approved and~~
19 ~~accredited college of chiropractic within the meaning of this chapter is a college of chiropractic~~
20 ~~that is approved by the board and accredited by the council on chiropractic education or its~~
21 ~~successor or equivalent~~doctor of chiropractic program.

22 **SECTION 8. AMENDMENT.** Section 43-06-10.1 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-06-10.1. National board examination.**

25 The board ~~may in its discretion~~shall accept all parts of the national board examination in lieu
26 ~~of part of an examination for a license, or its successor or equivalent,~~ providing all other
27 requirements are met.

28 **SECTION 9. AMENDMENT.** Section 43-06-11 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **43-06-11. License - When issued - Who issues - Title used by licensed chiropractor.**

2 A license to practice chiropractic in this state must be issued by the board to an applicant
3 who has submitted proof of the required qualifications and passed the required examination.
4 NoA license to practice chiropractic may not be granted except upon the affirmative vote of at
5 least ~~three of the members~~ a quorum of the board. A licensed chiropractor may use the title
6 doctor of chiropractic, chiropractor, chiropractic physician, or D.C.

7 **SECTION 10. AMENDMENT.** Section 43-06-13 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-06-13. Term of license - Renewal - Fee - Requirements.**

- 10 1. A license to practice chiropractic in this state is valid for one year ~~only~~ and must be
11 renewed on or before the first day of September of each year.
- 12 2. A renewal applicant shall pay a fee for renewal of a license. The fee for renewal of a
13 license ~~must~~ shall be determined by the board from time to time, but may not exceed
14 five hundred dollars.
- 15 3. The board shall establish by rule the number of hours necessary for annual continuing
16 education. ~~Before it issues a renewal license, the board shall require each applicant~~
17 ~~who has a license to practice in this state to attend a postgraduate course sponsored~~
18 ~~by a college of chiropractic, accredited by the council on chiropractic education, or its~~
19 ~~successor or equivalent, a health-related seminar sponsored by an equally accredited~~
20 ~~college or university, a medical seminar qualifying for continuing education credits, or~~
21 ~~an educational program arranged by the North Dakota chiropractic association and~~
22 ~~approved by the board.~~
- 23 4. The board shall establish by rule the accepted programs for the annual continuing
24 education requirement.
- 25 5. A license ~~which~~ that has not been renewed, as a result of nonpayment of annual
26 registration fees required by this chapter or as a result of the failure by the licensee to
27 attend the required annual continuing education, may be reinstated ~~upon payment to~~
28 ~~the board of the amount of renewal fees then in default or by certification that the~~
29 ~~required continuing education has been completed after the expiration of the previous~~
30 ~~license~~ by procedure adopted by the board in administrative rules. In either case, the

board may charge an additional administrative fee to be fixed by the board at the time of consideration of the reinstatement, not to exceed four hundred dollars.

6. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a re-examination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of ~~its~~the board's discretion finds and determines that the best interests of the public and the applicant will be served thereby.

SECTION 11. AMENDMENT. Section 43-06-15 of the North Dakota Century Code is amended and reenacted as follows:

43-06-15. Grounds for denial of licensure, revocation, or suspension of license or other action of the board - ~~Sworn~~Signed written statement - Investigation - Hearing.

1. The board may deny an application for licensure and may revoke, suspend, or take such other action as provided in this section regarding the license of any chiropractor in this state who:
 - a. Has a mental or physical condition such that the person is unable to safely engage in the practice of chiropractic.
 - b. Has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and thereafter has not been declared competent or released from supervision.
 - c. Is suffering from alcoholism or drug addiction which endangers the public by impairing the chiropractor's ability to practice safely.
 - d. Procured the license to practice by fraud or mistake.
 - e. Has engaged in unprofessional or dishonorable conduct, including false or misleading advertising, rendering excessive or inappropriate treatment, or charging unconscionable fees.
 - f. Has been convicted of a crime involving ~~moral turpitude~~sexual misconduct, infliction of physical harm or bodily injury to another individual, corruption, dishonesty, illegal possession or distribution of drugs, or any crime that would affect the person's ability to practice as a licensed chiropractor. A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence.

- 1 g. Has aided, assisted, or enabled any unlicensed person to practice chiropractic
2 contrary to this chapter or rule of the board.
- 3 h. Has engaged in the practice of abortion.
- 4 i. Has made use of any advertising statement of a character tending to deceive or
5 mislead the public.
- 6 j. Has failed to maintain a chiropractic facility in safe and sanitary conditions.
- 7 k. Has incurred a disciplinary action, suspension, or revocation in another
8 jurisdiction; has surrendered a license while a disciplinary complaint was pending
9 in another jurisdiction; or has entered a settlement agreement to avoid or resolve
10 a disciplinary complaint in another jurisdiction as a result of acts similar to acts
11 described in this section or rule of the board. A certified copy of the suspension or
12 revocation board order in the other jurisdiction is conclusive evidence.
- 13 l. Has committed any violation of the provisions of this chapter and, the code of
14 ethics, or rules as adopted by the board, including the failure to submit for
15 physical or mental examination or to provide information as required by the
16 board.
- 17 m. Has practiced chiropractic while the license to practice was suspended or
18 revoked.
- 19 n. Has, while under probation, violated ~~its~~the terms of probation.
- 20 o. Has failed to properly supervise a certified chiropractic clinical assistant or who
21 has delegated duties to a certified chiropractic clinical assistant which are beyond
22 the assistant's education or training or which are beyond the scope of practice of
23 a certified chiropractic clinical assistant.
- 24 2. Any person, health care facility, business, or organization is immune from civil liability
25 or criminal prosecution for submitting a ~~sworn~~signed written statement and other
26 reports and information to the board under subsection 5 or for otherwise reporting to
27 the board violations or alleged violations under this chapter. The reports are not public
28 records.
- 29 3. Members of the board and persons employed by the board or engaged in the
30 investigation or prosecution of violations and in the preparation and management of
31 charges of violations of this chapter on behalf of the board, including members of any

peer review committee, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

4. A doctor of chiropractic who is the subject of an investigation by, or on behalf of, the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of patient records or any pertinent information requested by the board, to assist the board in ~~its~~the board's investigation.

5. Any person, including a member of the board, may file a signed written statement and other reports and information with any member of the board against a licensed chiropractor charging the chiropractor with any of the offenses or conditions set forth in subsection 1, ~~which. The~~ statement must set forth a specification of the charges. When the statement has been filed, the board shall make an investigation as provided by subsection 6.

6. When the statement and other reports and information have been filed, the board shall notify the licensed chiropractor of the allegations and ~~shall thereafter make an investigation for the purpose of determining~~shall investigate to determine whether the allegations in the statement constitute a basis for further proceedings. The investigation must be conducted in such manner and at such time and place as in the judgment of the board will best ascertain the facts. The board may appoint a peer review committee. The board, in order to pursue the investigation, ~~has the power to~~may subpoena and examine witnesses and records, including patient records, and ~~to~~ copy, photograph, or take samples. ~~It~~The board may require the licensed chiropractor to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and review any relevant medical or psychological records, including test results and x-rays relative to the examination or treatment of the licensed chiropractor. A written request from the board constitutes authorization to release information. The medical or psychological information is not public record.

- 1 7. If, based on the investigation or report from a peer review committee, the board has
2 reasonable cause to believe that there is a basis for further proceedings, the board
3 shall prepare a complaint and serve ~~it~~the complaint, along with a notice of hearing, on
4 the licensed chiropractor and thereafter proceed with a hearing on the matter under
5 chapter 28-32. All hearings must be held in Bismarck ~~at the state capitol~~ unless the
6 board and the licensed chiropractor agree otherwise.
- 7 8. After the hearing, the board, under section 28-32-39, shall make and give notice of
8 ~~its~~the board's determination or decision as to whether the offenses charged have been
9 committed or the conditions charged do not exist. If the finding is in the negative, the
10 board shall dismiss the charges. If the finding is in the affirmative, the board shall:
- 11 a. ~~Revoke~~Shall revoke the license;
- 12 b. ~~Suspend~~Shall suspend the licensee's right to practice for a period not to exceed
13 one year;
- 14 c. ~~Suspend its~~Shall suspend the board's judgment of revocation on terms and
15 conditions determined by the board;
- 16 d. ~~Place~~Shall place the licensee on probation; or
- 17 e. ~~Take~~Shall take any other disciplinary action which the board in ~~its~~the board's
18 discretion considers proper, including the ordering of an adjustment to a patient's
19 bill or refund of ~~such an~~ amount previously paid, including reasonable interest
20 from the date of the order, to a patient or payer of any unconscionable fees for
21 chiropractic services.
- 22 f. In addition to the actions imposed in subdivisions a through e, ~~the board~~ may:
- 23 (1) Require payment of all costs of proceedings resulting in a disciplinary
24 action, including administrative costs, investigation costs, attorney's fees,
25 peer review committee costs, witness costs and fees, the costs of the
26 offices of administrative hearings services, and court costs.
- 27 (2) Impose a civil penalty not exceeding ten thousand dollars for each separate
28 violation, to deprive the chiropractor of any economic advantage gained by
29 reason of the violation found and to reimburse the board for the cost of the
30 investigation and proceedings.

1 9. In cases of revocation, suspension, or probation, the board shall record the facts of the
2 case and all actions of the board.

3 10. On the expiration of a term of suspension, the licensee must be reinstated by the
4 board if the chiropractor applies to the board and furnishes evidence, satisfactory to
5 the board, that the licensee is then of good character and conduct or restored to good
6 health and ~~that~~ the licensee has not practiced chiropractic during the term of
7 suspension and is competent to practice in this state. If the evidence fails to establish
8 those facts to the satisfaction of the board, the board may require the applicant to
9 submit to an examination in accordance with ~~sections 43-06-08 through 43-06-12~~this
10 chapter or shall proceed to hearing on revocation with notice as provided in
11 subsection 7.

12 11. Any licensed chiropractor may take corrective action or voluntarily relinquish the
13 chiropractor's license to the board before a formal order of the board on such terms
14 and conditions as may be agreed by the licensed chiropractor and the board.

15 **SECTION 12. AMENDMENT.** Section 43-06-16 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-06-16. Duties of chiropractor.**

18 1. Every licensed chiropractor practicing in this state shall:

19 ~~1.~~ a. Observe all state and municipal regulations relating to the control of contagious
20 and infectious diseases.

21 ~~2.~~ b. Sign death and birth certificates.

22 ~~3.~~ c. Sign certificates pertaining to public health.

23 ~~4.~~ d. Report to the proper health officer in the manner required of licensed physicians.

24 2. A licensed chiropractor practicing in this state may perform a preparticipation
25 evaluation for participation in sports.

26 3. All certificates signed by a chiropractor licensed to practice in this state are of the
27 same force and effect as those signed by other licensed physicians.

28 **SECTION 13. AMENDMENT.** Section 43-06-16.1 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **43-06-16.1. Certified chiropractic clinical assistant.**

2 1. A person may not practice as a certified chiropractic clinical assistant or claim to be a
3 chiropractic assistant without certification from the board. The fee for initial certification
4 is fifty dollars. The board may grant a temporary certification to an initial applicant who
5 is waiting for a criminal history background check to be completed. This temporary
6 certification expires automatically upon the applicant receiving a regular certification or
7 being notified the application has been denied.

8 2. To be certified to practice as a certified chiropractic clinical assistant, an applicant
9 ~~must~~shall provide evidence satisfactory to the board the applicant:

10 a. Graduated from high school, or holds a graduate equivalency degree.

11 b. Is at least eighteen years of age.

12 c. Successfully completed the certified chiropractic clinical assistant program and
13 examination by the federation of chiropractic licensing boards. ~~However,~~
14 ~~applicants for initial certification before March 1, 2018, and who have verified~~
15 ~~employment of two thousand hours as a chiropractic assistant within the three~~
16 ~~years before August 1, 2017, and submitted evidence of passing the certified~~
17 ~~chiropractic clinical assistant examination by the national board of chiropractic~~
18 ~~examiners via the federation of chiropractic licensing boards, qualify for~~
19 ~~certification without meeting the coursework requirement of the program.~~

20 d. ~~Is of good moral character and submits documentation of good moral character~~
21 ~~as prescribed by the board, including criminal records review~~Successfully
22 completed a criminal history record check as authorized by section 43-06-11.1.

23 e. Completed an application in a manner and form provided by the board.

24 f. Paid all applicable fees relative to the application process as determined by the
25 board.

26 g. Received practical experience to the extent required to demonstrate competency
27 to safely provide patient care pertinent to the chiropractic office at which the
28 certified chiropractic clinical assistant is employed.

29 3. A certified chiropractic clinical assistant who is certified in another jurisdiction may
30 apply for certification. The applicant shall provide evidence satisfactory to the board
31 the applicant:

- 1 a. Has current practice privilege in good standing as a certified chiropractic clinical
2 assistant or equivalent granted by at least one jurisdiction with requirements
3 similar to or greater than the ~~requirement~~requirements of this board; and
- 4 b. Presented to the board current documentation that any practice privilege granted
5 by another jurisdiction as a certified chiropractic clinical assistant or equivalent
6 has not been suspended, revoked, or otherwise restricted for any reason except
7 nonrenewal.
- 8 4. A minimum passing examination score of seventy-five percent~~result~~ is required to
9 obtain certification. ~~The examination must be provided by the national board of~~
10 ~~chiropractic examiners via the federation of chiropractic licensing boards or a~~
11 ~~board-approved examination~~The board may accept a chiropractic clinical assistant
12 program examination such as the federation of chiropractic licensing board-certified
13 chiropractic clinical assistant program examination or its board-approved successor or
14 equivalent.
- 15 5. The fee for renewal of the certification is fifty dollars per year and must be set by the
16 board from time to time. ~~Certificate renewal is~~A certificate in this state is valid for one
17 year and must be renewed on or before March first of every year.
- 18 a. A certified chiropractic clinical assistant shall obtain ~~six~~three hours of continuing
19 education every ~~two years~~year after the initial certification to renew certification.
20 These hours must be a program or seminar approved by providers of approved
21 continuing education, ~~a seminar sponsored by the North Dakota chiropractic~~
22 ~~association and approved by the board,~~ or a seminar approved for continuing
23 education by another state's board of chiropractic examiners or equivalent, or a
24 seminar otherwise approved by the board. Proof of meeting continuing education
25 requirements must be submitted with the certified chiropractic clinical assistant's
26 renewal application ~~on the even-numbered years after initially receiving~~
27 certification.
- 28 b. For an applicant who first receives initial certification between ~~January~~December
29 first of the year immediately before renewal and March first, the certification is
30 deemed to be automatically renewed on March first for an additional year without
31 payment of an additional renewal fee.

- 1 6. A certified chiropractic clinical assistant must be under the direct supervision of a
2 North Dakota licensed chiropractor in good standing with the board. Direct supervision
3 means the oversight provided by the chiropractor over the clinical services performed
4 by a certified chiropractic clinical assistant, and requires the chiropractor to be on the
5 premises at all times and readily available to instruct the certified chiropractic clinical
6 assistant throughout the performance of the clinical services.
- 7 7. The certified chiropractic clinical assistant may assist the chiropractor in patient care
8 involving physiotherapy, electrotherapy, hydrotherapy, chiropractic rehabilitative
9 therapy, administrative processes, and other activities as needed to assist in the
10 practice of chiropractic. The certified chiropractic clinical assistant may perform
11 delegated duties commensurate with the certified chiropractic clinical assistant's
12 education and training, but may not evaluate, interpret, design, or modify established
13 treatment programs of chiropractic care or violate any statute. Certified chiropractic
14 clinical assistants may not participate in clinical decisionmaking, render manipulative
15 chiropractic care, create or change the course of a chiropractic treatment plan, or
16 represent themselves as independent health care providers. A certified chiropractic
17 clinical assistant may not perform medical imaging unless also licensed under
18 chapter 43-62 ~~or upon meeting an exception from that chapter.~~
- 19 8. The board may deny certification of an applicant, or may revoke, suspend, or take
20 other appropriate disciplinary or corrective action regarding the certification of any
21 certified chiropractic clinical assistant who:
 - 22 a. Has a mental or physical condition that renders the individual unable to safely
23 engage in patient care.
 - 24 b. Has been declared incompetent by a court.
 - 25 c. Is suffering from alcoholism or drug addiction that endangers the public by
26 impairing the certified chiropractic clinical assistant's ability to practice safely.
 - 27 d. Procured the certification to practice by fraud or mistake.
 - 28 e. Has engaged in unprofessional or dishonorable conduct.
 - 29 f. Has been convicted of a crime involving ~~moral turpitude~~ sexual misconduct,
30 infliction or physical harm or bodily injury to another individual, corruption, or

dishonesty which would affect the certified chiropractic clinical assistant's ability to safely engage in patient care.

- g. Has aided or assisted a noncertified individual to practice as a certified chiropractic clinical assistant.
- h. Has made advertising statements that are deceiving or misleading to the public.
- i. Has had disciplinary action taken in another jurisdiction.
- j. Has committed any violation of regulations regarding chiropractic found in this chapter or rules adopted by the board.
- k. Has practiced as a certified chiropractic clinical assistant while the certification was suspended or revoked.
- l. Is found ~~guilty of~~ to have committed unprofessional conduct ~~that, which~~ includes:
 - (1) Willfully harassing, abusing, or intimidating a patient either physically or verbally.
 - (2) Any conduct that has endangered or is likely to endanger the health or safety of the public.
 - (3) Conviction of a crime related to the qualification of a certified chiropractic clinical assistant.
 - (4) Conviction of a felony or any offense involving ~~moral turpitude~~ sexual misconduct, infliction of physical harm or bodily injury to another individual, dishonesty, or corruption.
 - (5) Conviction of violating any law or regulation concerning the dispensing or administration of narcotics, dangerous drugs, or controlled substances.
 - (6) Knowingly making or signing any false certificates related to the chiropractic care administered.
 - (7) Participation in any act of fraud.
 - (8) Except as required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment.
 - (9) Delegating professional responsibilities to a person that is not certified to provide the services.

1 (10) Initiating or engaging in any sexual conduct, sexual activities, or sexualizing
2 behavior involving a current patient even if the patient attempts to sexualize
3 the relationship, except when the patient is the certified chiropractic clinical
4 assistant's spouse or significant other.

5 9. Disciplinary procedures will be conducted in accordance with chapter 28-32, with the
6 following provisions:

7 a. Complaints must be filed and signed in written form or may be considered by the
8 board on ~~its~~the board's own motion.

9 b. The board shall notify the certified chiropractic clinical assistant and the employer
10 regarding any complaints filed. Full and timely cooperation is required in the
11 investigation.

12 c. The board may appoint a peer review committee at ~~its~~the board's discretion. The
13 peer review committee has the same authority as a peer review committee
14 appointed under section 43-06-14.1.

15 d. If the board finds probable cause to impose disciplinary action, the board shall
16 prepare a complaint and serve ~~it~~the complaint to the certified chiropractic clinical
17 assistant and employer.

18 10. Certification is not required for individuals who solely perform administrative activities
19 of a nonclinical nature.

20 **SECTION 14. AMENDMENT.** Section 43-06-18 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-06-18. State's attorney to enforce law.**

23 The state's attorney of each county in this state shall enforce section 43-06-19 and
24 prosecute all violations ~~thereof~~of this section, and the ~~secretary-treasurer~~executive director of
25 the board, under the direction of the board, shall aid in the enforcement of this chapter.

26 **SECTION 15. REPEAL.** Sections 43-06-10 and 43-06-12 of the North Dakota Century
27 Code are repealed.

Senate Bill 2060-In Opposition
Industry, Business, and Labor Committee
67th Legislative Assembly of North Dakota
January 11, 2021

Good morning Chairman Klein, Vice Chairman Larsen, and Industry, Business, and Labor Committee members,

My name is Joan Connell. As a pediatrician in Bismarck, and mother of two teens, I am asking you for a Do-Not-Pass decision on section 12 of Senate Bill 2060. Section 12 would allow chiropractors to perform sports physical exams. I oppose this section due to lack of adequate training of chiropractors to perform/assess the necessary components of pediatric history and physical exam. I have included a chiropractic curriculum that I found online via this link <https://www.nuhs.edu/academics/college-of-professional-studies/chiropractic-medicine/curriculum/course-descriptions/> which serves as proof of my previous statement. The fact that chiropractors would make this request for this increase in scope of practice during this particular legislative year further proves the lack of comprehension/inadequate training related to pediatric care that they received as chiropractic students for the following reasons:

1. Due to the pandemic, there has been a significant increase in mental health issues for our population, including children and adolescents
<https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/interim-guidance-on-supporting-the-emotional-and-behavioral-health-needs-of-children-adolescents-and-families-during-the-covid-19-pandemic/> . Those seeing patients who come to the clinic for a sports physical must be capable of screening, assessing, intervening and managing the mental health issues that will arise during an increased percentage of visits (see PHQ-4 brief anxiety/depression screening tool that is part of the NDHSAA sports physical form found in this link https://ndhsaa.com/files/NDHSAA_Physical_Form.pdf). Recognition and best practices for treatment of mental health issues in children and adolescents cannot be taught in a general mental health course. In my own practice, I have noted a significant upswing in the intensity and volume of my pediatric patients struggling with mental illness since October 2020. I am not presenting live/virtually today during this hearing because it is being held on Monday, a regularly scheduled clinic day for me, and I do not feel comfortable being absent for my patients during this very difficult time for them. I cannot find a part of the chiropractic curriculum that would provide adequate training to assess and manage these issues in children/adolescents.
2. Due to potential cardiac complications of coronavirus, the AAP has published guidelines for more complex evaluation before return to play
<https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/clinical-guidance/covid-19-interim-guidance-return-to-sports/> . Given the large rate of asymptomatic cases, consideration for whether this additional evaluation needs to be done must be given during all sports physicals this year, with understanding and ability to perform this evaluation, interpret the results, and provide appropriate recommendations for those who require it. This will be challenging, even for physicians who have abundantly more education, training, and experience. Missing a cardiac

complication in a youth returning to sports could be a fatal mistake. Again, I do not see adequate coverage of this topic in the chiropractic student's curriculum.

3. Due to delay in seeking care associated with the pandemic, some North Dakota children and adolescents are behind in their immunizations. The sports physical presents an opportunity for recognition and subsequent administration of vaccines. Given that NDHSAA waived the mandate of a sports physical for the 2020-21 academic year, this puts more North Dakota children in the under immunized category. Chiropractors are not capable of immunizing patients. Chiropractors performing sports physicals will either lead to parents needing to make another visit for their child/adolescent to be immunized or children remaining under immunized. Neither of these options seems to be in the best interest of North Dakotan children and families.

In closing, during this pandemic we have temporarily increased scope of practice in many fields to make sure we could optimize access to some type of care due to the increased number of sick patients complicated by the number of traditional healthcare workers missing work due to illness or quarantine. Moving forward, I urge you to ask yourself, with every request to increase scope of practice, if the request is truly what is best for the patient, the North Dakota citizen whom you are serving, and if this satisfies the goal of increasing access to QUALITY care. While I am not here in person, I would be happy to answer any questions you may have via email, phone (701-425-2067), or meeting. Thanks so much for your consideration of my concerns.

Joan Connell, MD MPH FAAP
Pediatrician

Good Morning Chairman Klein and members of the Senate Industry, Business and Labor Committee. My name is Molly Howell and I am the Director of the Division of Immunizations with the North Dakota Department of Health. I do not have testimony for SB2060 but want to let you know I am available virtually to answer questions, if needed. Thank You.

Senate Bill 2060-In Opposition
Industry, Business, and Labor Committee 67th
Legislative Assembly of North Dakota

January 11, 2021

Dear Chairman Klein, Vice Chairman Larsen, and Industry, Business, and Labor Committee members,

I am writing to express my concern and opposition to section 12 of SB 2060, which would give expanded scope of practice to chiropractors to perform sports physicals on children. As a physician who specializes in infectious diseases, and in my role as the Director of the NDSU Center for Immunization Research and Education, my main area of concern is in relation to the adverse effects passage of this bill would have on adolescent immunization rates. Three very important vaccines are indicated (and frequently missed) in the early adolescent period; the meningitis vaccine (meningococcus), the HPV vaccine (human papillomavirus), and a Tdap booster (tetanus, diphtheria, and pertussis). We frequently rely on the sports physical as a very important episode of care to discuss and administer these vaccines, or capture students who missed their earlier episode of care for receiving these vaccines. In addition, several other vaccines are eligible for catch-up if they slipped through the cracks from even earlier time periods when they were indicated. In our Center's training of primary care providers, we specifically target the sports physical as a vital medical encounter to help adolescents receive the full benefits and protections from vaccination.

Administering vaccines is outside of the scope of practice of chiropractors, and therefore any chiropractic sports physical will mean an essential missed opportunity for adolescents to receive several indicated vaccines. At a minimum, this would mean counseling them to make another appointment with another provider to get these done, an unnecessary barrier that will surely impede many from getting vaccinated. At worst, counseling about vaccine-preventable diseases and the need for receiving indicated vaccines, may not occur at all as this is not something typically covered in a chiropractic scope of practice.

Please vote no on this bill that will compromise our ability to fully protect our children from vaccine-preventable diseases.

Sincerely,



Paul J Carson, MD, FACP
Dept. of Public Health
North Dakota State University

DEPARTMENT OF PUBLIC HEALTH

NDSU Dept 2662 | PO Box 6050 | Fargo ND 58108-6050 | 701.231.6323 | Fax 701.231.5586 |

<http://www.ndsu.edu/publichealth>

NDSU is an EO/AA university.

To Whom It May Concern:

I am writing this letter in opposition to allowing chiropractors to perform sports physicals. As a pediatrician, I have completed extensive training related to the health of children and adolescents. For a sports physical to be comprehensive and valuable, a complete medical and family history must be obtained as well as a review of any possible symptoms indicating underlying disease processes. A complete physical exam must also be done. A chiropractor's scope of practice does not enable them to perform this assessment satisfactorily.

Thank you,

Stephanie Antony, MD
Pediatrician, Sanford Health
Stephanie.antony@sanfordhealth.org
701-417-7500

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2060
1/26/2021

relating to the state board of chiropractic examiners and the practice of chiropractic
--

Chair Klein opened the hearing at 2:47 p.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Telehealth
- Sports physicals

Senator Larsen moved a DO PASS on amendment 21.8021.01001[14:49].

Senator Kreun seconded the motion [14:49].

[14:51]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	N
Senator Curt Kreun	N
Senator Richard Marcellais	N
Senator Shawn Vedaa	N

Motion failed: 2-4-0

Senator Vedaa moved a DO PASS on Amendment 21.8021.01002 Title.02000 [15:00].

Senator Kreun seconded the motion [15:03].

[15:05]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed 6-0-0

Senator Larsen moved a DO PASS AS AMENDED [15:06].

Senator Burckhard seconded the motion [15:07].

[15:07]

Senators	Vote
Senator Jerry Klein	N
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	N
Senator Shawn Vadaa	Y

Motion passed 4-2-0

Senator Burckhard will carry the bill [15:08].

Chair Klein ended the hearing at 3:08 p.m.

Isabella Grotberg, Committee Clerk

21.8021.01001
Title.

Prepared by the Legislative Council staff for
Senate Industry, Business and Labor
Committee

January 13, 2021

PROPOSED AMENDMENTS TO SENATE BILL NO. 2060

Page 2, remove lines 17 through 21

Renumber accordingly

21.8021.01002
Title.02000

Prepared by the Legislative Council staff for
Senate Industry, Business and Labor
Committee

January 13, 2021

C5
1/26
1 of 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2060

Page 1, line 2, remove ", 43-06-16"

Page 13, remove lines 15 through 27

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2060: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2060 was placed on the Sixth order on the calendar.

Page 1, line 2, remove ", 43-06-16"

Page 13, remove lines 15 through 27

Renumber accordingly

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2060

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2060
3/8/2021

State board of chiropractic examiners & the practice.
--

(9:00) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	P
Rep Kasper	P	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P]	Rep P Anderson	P

Discussion Topics:

- Updating antiquated or incorrect language
- Updating outdated or discontinued practices

Dion Ficek~ND Board of Chiropractic Examiners. Attachment # 7793.

Bill Kaleck~Introduced Kris Anderson.

Kris Anderson~President-ND Chiropractic Association. Attachment # 7746.

Dion Fick~Answered question from the committee.

Jake Schmitz~Licensed Chiropractor & President-Association of Wellness Chiropractors.
Attachment # 7804.

Chairman Lefor closes the hearing. The bill will be held.

Additional written testimony: Attachment # 7778.

(9:44) End time.

Ellen LeTang, Committee Clerk



NORTH DAKOTA BOARD OF CHIROPRACTIC EXAMINERS

P.O. Box 185 · Grafton, ND 58237

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

SB 2060

House Industry, Business, and Labor Committee

March 8, 2021 9:00 AM

Chairman Lefor, members of the House Industry, Business, and Labor Committee, good morning, my name is Dion Ficek, and I am the President of the North Dakota Board of Chiropractic Examiners and am here presenting the Board testimony for Engrossed SB2060. Overall, this bill cleans up antiquated or incorrect language and removes outdated or discontinued practices. The board went through the statute with the intent of modernizing terms to reflect the intent of the statute appropriately. This bill has no fiscal impact.

Section 1. A definition for approved and accredited doctor of chiropractic programs is added. This language was included in the chapter in multiple locations. This relocation is made for clarity and also corrects the terminology from chiropractic college to doctor of chiropractic programs. Under 4(4), the terms treatments and interventions are added. These additions reflect a more current and modern definition of practices taught in the chiropractic education programs.

Last, the addition of the definition of Telehealth. The Board has mimicked the language used in the section of the Century Code for Physical Therapists for this addition. The current pandemic highlighted that there was not authorizing language regarding telehealth in the chiropractic code. This addition will allow licensed chiropractors to better assist their patients now and beyond the current pandemic.

Section 2. Subsections 2 and 3 required some updating and further definition as you will note in 3. These updates do not make changes to the current process, but rather adds the further definition required for the student and graduate interns. The last addition in this section is subsection 6 which permits chiropractors traveling with sports, cultural, or performing arts groups to treat their members while in North Dakota without holding a North Dakota license.

Section 3. This chapter was updated in the last legislative session. The appointments for the additional members were made. However, based upon the initial appointment dates and current expiration dates, a correction to subsection b. was required.

Section 4. The additions to this section are already included in the chapter. For clarity purposes, we are also including them in this section.

Section 5. Based upon the addition of 2 members to the Board completed last session, updates to the quorum were required.

Section 6. The updates in the section take the existing paragraph format and reorganize into numbered subsections for clarity purposes. There are no content changes, but some terminology updates.

Section 7. These updates remove the antiquated language and modernize the chapter.

Section 8. These changes update the section and include the equivalency clause that was inadvertently missed in this section when previous updates of the chapter occurred.

Section 9. Updates to the language regarding a quorum.

Section 10. These updates clean up language and remove redundancy between this chapter and the Administrative Code.

Section 11. Upon reviewing this chapter and the Administrative Code, the Board has the authority to deny a license, however, no grounds were included in the Century Code. The addition to this section adds the clarity needed for the Board and any potential applicant as to the grounds for the denial of a license. We are also updating the language from sworn to signed written. In 1(f) we are removing the antiquated term moral turpitude and replacing it with a clearer definition. In 1(k) we are updating the language to expand beyond suspension or revocations in other jurisdictions. In 8(f), we are adding further definition to the verbiage all costs.

Section 12. This chapter was added to the Century Code in the 2017 session. Now that it's been active for a few years, some updates or corrections were needed.

2(c): removes the grandfather clause that is no longer applicable

2(d): updates the language of good moral character

4: we are correcting the language regarding the scoring of the examination and the language of the examination and program utilized, also including an equivalency clause

5: simply updates for clarity

5(a): changes the continuing education requirement to an annual requirement from every 2-years. It also removes the naming of specific trade organizations and allows for the Board to approve other seminars

5(b): extends when first renewal is required based upon the initial certification date from 2 months to 3 months

7: N.D.C.C. 43-62 was updated and the exceptions no longer apply.

8(f): updates the term moral turpitude

8(l): updates legal language

8(l)(4): updates the term moral turpitude

8(l)(10): adds significant other

Section 13. This updates who assists the state's attorney's office in the enforcement of the chapter.

Section 14. 43-06-10 and 43-06-12 are antiquated sections. There was a time when each individual state, including this one, had the candidates sit for a state exam to obtain licensure. As this no longer is the practice, these sections no longer apply.

I would like to thank you for your time this morning. This concludes my testimony and I would stand for any questions.

If the committee members have any additional questions for the Board, please contact our Executive Director:

Lisa Blanchard, Executive Director

ND Board of Chiropractic Examiners

(701) 213-0476

contact@ndsbce.org

March 8, 2021

Dear Chairman Lefor and members of the House Industry, Business and Labor Committee,

My name is Kris Anderson, and I am a chiropractor in Grand Forks representing the ND Chiropractic Association in support of SB 2060. We hope you will recommend DO PASS.

The ND State Board of Chiropractic Examiners has undertaken a significant effort to clarify the scope of practice of chiropractic in ND. We support their approach to bring clarity and simplicity to their work, which is in addition to recent updates to the administrative code. Calling your attention to two provisions that are most relevant to our position as the voice for the profession in ND, my final comments relate to the inclusion of the definition of telehealth in Section 1 (43-06-01.5) and the addition of a civil monetary penalty during disciplinary proceedings in Section 4 (43-06-04.1.3).

First, the definition of telehealth is needed to clarify how chiropractors interact with patients using telehealth. Chiropractors are included in the definitions of "health care provider" in NDCC 26.1 - 36 - 09.15, which describes "coverage of telehealth," but confusion exists around what services chiropractors provide using telehealth. Sometimes, chiropractic care is viewed only as hands-on services, which is untrue. The telehealth definition resolves this confusion.

Second, by adding the power to impose a civil monetary penalty during disciplinary proceedings, we hope license fees for all chiropractors will not continue to increase. When a disciplinary case escalates to include court proceedings and then remains in court for an extended period, we all bear the costs in the form of increased fees. Once a case is closed, costs can then be brought to bear by the individual if a violation is found in the affirmative. However, future license fees remain at an increased rate. As written, the solution may be imperfect, but we acknowledge a problem exists, and we support a solution that protects all licensees against increased fees due to frivolous lawsuits.

Thank you for your work to consider SB 2060. We believe it will make significant and important updates to the chiropractic scope of practice. Coupled with the recent updates to the administrative code, we believe SB 2060 will improve the work done by the board of chiropractic examiners to represent the public interests related to the practice of chiropractic in ND.

Sincerely,

Kris R Anderson, DC, MS
President, ND Chiropractic Association
ndca.pres@gmail.com
563-449-2702

Dr. Jake Schmitz
4233 44th 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
- 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

March 7, 2021

SB2060

Dr. Steve Nagel
180 Health Solutions
2008 Twin City Dr.
Bismarck, ND 58554

Dear House Industry, Business, and Labor Committee,

Chair and Representatives, there are parts of this bill that I am in direct opposition to. Much is clarification which is fine. However I will address only the parts I am opposed to. I will be brief:

43-06-04.1.3 - Pg 5 line 8 -- The board may impose a civil penalty not exceeding ten thousand dollars **per violation** as a result of the disciplinary proceedings.

Page 12 line 27 and

- Per incident:

This can mean that if, for example, chart notes are not 100% pristine or a form isn't exactly how it is "judged" it should be, that a person could be literally driven out of business for errors they don't even intentionally make and are irrelevant to patient satisfaction and quality of care. (and I've had this conversation with others where the board HAS done this...).

Example: 50 chart notes deemed insufficient—this would mean a \$500,000 fine for that doctor. (that happened to a ND DC as I've been told). Medicare patients pay around \$23 per visit. They are basically charity cases for us, as we about break even with what it costs us to take care of them with overhead expenses. We do it because they need help. I have a compliance officer who I pay to help me remain compliant. However what happens if even that is not deemed adequate? Am I subject to a complaint? If so, these "charity" cases would drive me out of business.

2nd example: The board refuses to proactively approve marketing ads before they are sent out, even when submitted to them prior. They make you get the complaint before they give approval/disapproval. Let's say the board does not like wording on a mailer ad. 5000 mailers go out—500,000,000 million dollar fine? That is excessive and unfair, especially when practitioner does their best to do things ethically and the right way, without any harm done or intended.

- Instead of "per incident" - A potential remedy would be to say **\$10000 PER CATEGORY of infraction** (e.g. "standard of documentation/standard of care CATEGORY of infraction).
- The \$10,000 per infraction is listed twice- clarify that this is not \$10,000 twice (\$20,000). As well as decrease it to \$5000

43-06-04.1.1.h Page 6 Line 3

- "Any other rules or regulations as may be necessary to give this chapter full force and effect."

This single line gives unchecked power to the board. It allows the board to make up any and all rules they want as they go. **Please ask them what is the purpose of this and why was it added? And how they will ensure this is not used to target practitioners they don't like, or their competition down the street. Don't rules and regulations need to be approved by the legislative body?**

43-06-15.8.f(1) P12 line 23

- Require payment of all costs of proceedings resulting in a disciplinary action, **including administrative costs, investigation costs, attorney's fees, peer review committee costs, witness costs and fees, the costs of the offices of administrative hearings services, and court costs**

Here's the problem: Lets say the board wants to fine a doctor his license and 1million dollars. The doctor is innocent so he fights it and it is deemed that the doctor was mostly free from infraction but there was one that ends up being a \$10000 fine due to "any other rules and regulations" inserted at will. But through the different avenues and the zealous pursuit of "something" to pin on the doctor, the board incurs \$100,000 in expenses. SO now the doctor needs to come up with \$100,000 to pay the board's costs because, since there technically was a "disciplinary action"? Or for a "t" that wasn't crossed correctly?

This makes it really hard for doctors in private practice to stand up when they know they didn't do anything wrong, and just take the penalties that the board doles out.

Furthermore it is an open checkbook on the doctor's dime. What is to keep the board responsible with costs of investigating? If all they need is one small "violation" resulting in "disciplinary action" and the doctor is liable for all their costs. Seems like leverage to scare a practitioner away from defending themselves and just taking their whipping instead, even if innocent.

Please request clarification of 43-06-04.1.3 prior to any approval.

Please demand removal of line 43-06-04.1.1.h prior to approval.

Please request clarification and confines to 43-06-15.8.f(1) to ensure responsible use of funds and avoid overzealous pursuit and overreach.

I'm happy to answer any questions you may have.

Dr. Steve Nagel, DC, BSN
180 Health Solutions
701-214-7846

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2060
3/9/2021

State board of chiropractic examiners & the practice.
--

(10:45) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	P
Rep Kasper	P	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	P

Discussion Topics:

- Committee work

Jennifer Clark~Legal Legislative Council. Attachments # 8220 & #8219.

Rep Stemen moved amendment 21.8021.02001.

Rep Nehring second.

Voice vote Motion carried.

Rep Adams moved Do Pass as Amended.

Rep Schauer second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 14-0-0 & Rep Hagert is the carrier.

Additional written testimony: Attachment # 8227.

(10:52) End time.

Ellen LeTang, Committee Clerk

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2060

Page 2, line 10, overstrike "and"

Page 2, line 12, after "assistant" insert "; and

(7) Telehealth"

Page 2, line 24, after "**Who**" insert "is"

Page 5, line 8, remove "The board may impose a civil penalty not"

Page 5, remove lines 9 and 10

Page 8, line 13, remove the overstrike over "~~must~~"

Page 8, line 13, remove "shall"

Page 13, line 20, overstrike "is fifty" and insert immediately thereafter "may not exceed one hundred"

Page 13, line 20, after "dollars" insert "per year and must be set by the board from time to time"

Page 15, line 1, overstrike "is fifty" and insert immediately thereafter "may not exceed one hundred"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2060, as engrossed: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2060 was placed on the Sixth order on the calendar.

Page 2, line 10, overstrike "and"

Page 2, line 12, after "assistant" insert "; and

(7) Telehealth"

Page 2, line 24, after "**Who**" insert "is"

Page 5, line 8, remove "The board may impose a civil penalty not"

Page 5, remove lines 9 and 10

Page 8, line 13, remove the overstrike over "~~must~~"

Page 8, line 13, remove "shall"

Page 13, line 20, overstrike "is fifty" and insert immediately thereafter "may not exceed one hundred"

Page 13, line 20, after "dollars" insert "per year and must be set by the board from time to time"

Page 15, line 1, overstrike "is fifty" and insert immediately thereafter "may not exceed one hundred"

Renumber accordingly

21.8021.02001
Title.

Prepared by the Legislative Council staff for
Representative Lefor
March 8, 2021

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2060

Page 2, line 10, overstrike "and"

Page 2, line 12, after "assistant" insert "; and

(7) Telehealth"

Page 5, line 8, remove "The board may impose a civil penalty not"

Page 5, remove lines 9 and 10

Page 8, line 13, remove the overstrike over "must"

Page 8, line 13, remove "shall"

Page 13, line 20, overstrike "is fifty" and insert immediately thereafter "may not exceed one hundred"

Page 13, line 20, after "dollars" insert "per year and must be set by the board from time to time"

Page 15, line 1, overstrike "is fifty" and insert immediately thereafter "may not exceed one hundred"

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2060

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Chiropractic Examiners)

1 A BILL for an Act to amend and reenact sections 43-06-01, 43-06-02, 43-06-04, 43-06-04.1,
2 43-06-05, 43-06-08, 43-06-09, 43-06-10.1, 43-06-11, 43-06-13, 43-06-15, 43-06-16.1, and
3 43-06-18 of the North Dakota Century Code, relating to the state board of chiropractic
4 examiners and the practice of chiropractic; and to repeal sections 43-06-10 and 43-06-12 of the
5 North Dakota Century Code, relating to the state board of chiropractic examiners and the
6 practice of chiropractic.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 43-06-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-06-01. Definitions.**

11 In this chapter, unless the context or subject matter otherwise requires:

- 12 1. "Approved and accredited doctor of chiropractic program" means a doctor of
13 chiropractic program approved by the board and accredited by a board-approved
14 entity, such as the council on chiropractic education or its successor or equivalent.
- 15 2. "Board" means the state board of chiropractic examiners.
- 16 ~~2.3.~~ "Certified chiropractic clinical assistant" means an individual certified by the board who
17 in accordance with section 43-06-16.1 assists with basic health care duties in the
18 practice of chiropractic under the supervision of a licensed doctor of chiropractic in
19 good standing with the board.
- 20 ~~3.4.~~ a. "The practice of chiropractic" includes:
21 (1) The examination, evaluation, and diagnosis by means including x-ray, other
22 appropriate diagnostic imaging, clinical laboratory procedures, or pertinent
23 examinations taught by chiropractic colleges accredited by the council on
24 chiropractic education or its successor or equivalent;

(2) The treatment of patients by means of the adjustment or manipulation of the spinal column, the vertebral articulations, the appendicular skeleton not excluding the skull, and of any displaced tissue of any kind or nature;

(3) The practice of physiotherapy, electrotherapy, or hydrotherapy;

(4) All other procedures, treatments, and interventions taught by chiropractic colleges accredited by the council on chiropractic education or its successor;

(5) The rating and reporting of any permanent impairment of function and the providing of professional opinions regarding any matter included in this definition of practice of chiropractic as set out herein; ~~and~~

(6) Delegation of basic health care duties in the practice of chiropractic to a certified chiropractic clinical assistant; and

(7) Telehealth.

b. The practice of chiropractic does not include prescribing for, removal of, or administering to any person any medicine or drug to be taken internally which is now or hereafter included in materia medica, nor performing any surgery, except as is provided in this section, nor practicing obstetrics.

5. "Telehealth" means the use of electronic communications to provide and deliver chiropractic related information and chiropractic services, including chiropractic related information and services, over any distance. Telehealth encompasses chiropractic care and chiropractic promotion activities, including education, advice, reminders, interventions, and the monitoring of interventions.

SECTION 2. AMENDMENT. Section 43-06-02 of the North Dakota Century Code is amended and reenacted as follows:

43-06-02. Who exempt from the provisions of this chapter.

This chapter does not apply to:

1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.
2. ~~Students duly enrolled in a college of chiropractic approved and accredited by the council on chiropractic education, or its successor or equivalent, who have completed chiropractic studies and who are continuing their training under a preceptorship~~

1 program and performing the duties of an intern under the supervision of a chiropractor
2 licensed in the state of North Dakota who has received approval to supervise such
3 internship by the board and said students having received approval to participate in
4 such internship by the board and by the chiropractic college or university.

5 3. ~~A graduate of any approved and accredited college of chiropractic who has for the first~~
6 ~~time made application for license by examination to practice chiropractic in the state of~~
7 ~~North Dakota, and who, under the supervision of a North Dakota licensed chiropractor,~~
8 ~~performs the duties of an intern, provided that a supervising chiropractor has certified~~
9 ~~to the board that the graduate is of good character and competent chiropractic ability.~~
10 ~~The enrolled in an approved and accredited doctor of chiropractic program, who qualify~~
11 ~~for the preceptorship program. Under this exception:~~

12 a. The student shall perform the duties of an intern under the supervision of a
13 chiropractor licensed in the state of North Dakota.

14 b. The student and the licensed chiropractor shall meet the requirements
15 established for the preceptorship by an approved and accredited doctor of
16 chiropractic program and must be approved by the program and by the board.

17 3. A graduate of a program who has not completed the examination requirements in
18 section 43-06-10.1 who applies for a graduate internship under this exception:

19 a. The graduate, under the supervision of a North Dakota licensed chiropractor,
20 shall perform the duties of an intern.

21 b. The graduate shall submit an initial application for North Dakota licensure.

22 c. The graduate must be sponsored by a chiropractor with a current and valid North
23 Dakota license in good standing, including no active complaints, with at least
24 three years of experience.

25 d. The graduate and the license holder shall provide proof of malpractice insurance.

26 e. The graduate intern authorization granted by the board terminates within fifteen
27 months from the date issued by the board.

28 4. Nothing in this chapter is to be construed to impinge upon the practice of medicine by
29 a physician and surgeon or an osteopathic physician and surgeon who has adequate
30 training in the use of manipulative and adjustive procedures of the spine and
31 appendicular skeleton.

5. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is teaching, demonstrating, or providing chiropractic in connection with teaching or participating in an educational seminar in the state for no more than sixty days in a calendar year.

6. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is practicing chiropractic in North Dakota as a member of the health care team for a sports, cultural, or performing arts group. Treatment may only be performed on members of the team or group the chiropractor is traveling with, for no more than sixty days in a calendar year.

SECTION 3. AMENDMENT. Section 43-06-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. 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 only one term expires on the thirty-first day of August of any year 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~~One year 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. Vacancies on the board must be filled by appointment by the governor.

SECTION 4. AMENDMENT. Section 43-06-04.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-04.1. Powers and duties of board.

1. The board shall administer the provisions of this chapter and the administrative rules of the board relating to the practice of chiropractic. ~~†The board~~ has all powers, rights, and duties as provided in chapter 28-32.

- 1 2. The board shall verify the qualifications of applicants for licenses to practice
2 chiropractic and of applicants for certification to practice as a certified chiropractic
3 clinical assistant. ~~4The board~~ shall examine and renew the licenses or certification of
4 duly qualified applicants.
- 5 3. The board shall regulate the practice of chiropractic and shall enforce the provisions of
6 this chapter and the rules of the board. The board shall investigate complaints of
7 violations and cause the prosecution of persons violating the provisions of this chapter
8 or the administrative rules of the board. ~~The board may impose a civil penalty not~~
9 ~~exceeding ten thousand dollars per violation as a result of the disciplinary~~
10 ~~proceedings.~~
- 11 4. The board may appoint a peer review committee and employ such personnel and
12 incur such expenses as may be necessary for the performance of the board's duties
13 and the enforcement of this chapter.
- 14 5. The board may inspect upon probable cause, at all reasonable times, any chiropractic
15 office or place where chiropractic services are performed.
- 16 6. The board may set fees for licensure and renewal.
- 17 7. The board may adopt and amend administrative rules and regulations, consistent with
18 ~~the provisions of this chapter governing the practice of chiropractic and the diagnosis~~
19 and treatment of patients, the enforcement of this chapter, and proper performance of
20 ~~its~~the board's duties, including:
 - 21 a. A code of ethical conduct governing the practice of chiropractic.
 - 22 b. Requirements, standards, and examinations to determine the intellectual,
23 educational, scientific, technical, and professional qualifications of applicants for
24 license or certification.
 - 25 c. Matters pertaining to the content and conduct of examination.
 - 26 d. Matters pertaining to the operation and registration of chiropractic facilities.
 - 27 e. Matters pertaining to the practice and certification of chiropractic specialties by
28 licensed doctors of chiropractic.
 - 29 f. The quantity, type, and character of postgraduate study to be done by any
30 licensee in order to comply with ~~the provisions of this chapter.~~

1 g. Set policies and procedures on what constitutes professional or unprofessional
2 conduct.

3 h. Any other rules or regulations as may be necessary to give this chapter full force
4 and effect.

5 **SECTION 5. AMENDMENT.** Section 43-06-05 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal**
8 **- Compensation - Expenses - How paid.**

9 The board shall hold regular meetings twice yearly at approximate six-month intervals and
10 such special meetings as ~~it~~the board may deem necessary. The meetings shall~~shall~~must be held at
11 such places as the board may designate. ~~Three~~Four members of the board constitute a
12 quorum. At the first meeting of the board of each calendar year, the members of the board shall
13 elect from their membership a president, vice president, and secretary-treasurer. Each shall
14 hold office for one year and until a successor is elected and qualified. The board shall have a
15 seal and may adopt appropriate rules necessary to carry out the provisions of this chapter. A
16 member of the board shall receive compensation in an amount to be fixed by regulation of the
17 board for each day or portion thereof of a day spent in the discharge of duties, such mileage as
18 is provided by section 54-06-09, and must be reimbursed for actual and necessary expenses
19 incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the
20 compensation, expenses, and mileage, the secretary-treasurer of the board is entitled to
21 receive such salary as must be fixed by a resolution of the board adopted at a regular meeting.

22 **SECTION 6. AMENDMENT.** Section 43-06-08 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-06-08. License required - Application - Examination required - Fee.**

25 ~~No~~A person may not practice chiropractic in this state unless that person has a license from
26 the state board of chiropractic examiners. ~~Any~~A person who desires a license shall ~~apply to the~~
27 ~~board and submit to an examination. Each applicant shall present with the application a diploma~~
28 ~~from a college of chiropractic accredited by the council on chiropractic education or its~~
29 ~~successor or equivalent, or a photocopy of the same, or a certificate from the college stating~~
30 ~~that the applicant is a student in good standing in the student's last trimester, and proof that the~~
31 ~~applicant has the required qualifications. The board may allow an applicant to take the~~

1 ~~examination during the period that the applicant is attending the applicant's last trimester but~~
2 ~~may not issue a license until the applicant has graduated and has provided the board with a~~
3 ~~diploma as provided in this section. Before beginning the examination, the applicant shall pay:~~

4 1. Apply to the board;

5 2. Submit an official transcript of successful completion of all required examinations;

6 3. Submit an official transcript and diploma from an approved and accredited doctor of
7 chiropractic program. The applicant may submit an application while the applicant is
8 enrolled in the applicant's last term but the board may not issue a license until the
9 applicant has graduated and has provided the board with an official transcript and
10 diploma as provided in this section; and

11 4. Pay to the board a fee, to be determined by the board from time to time, of an amount
12 not to exceed five hundred dollars.

13 **SECTION 7. AMENDMENT.** Section 43-06-09 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-06-09. Chiropractor - Qualifications.**

16 An applicant for ~~examination~~licensure to practice chiropractic in this state ~~shall~~must have a
17 degree ~~from~~ or a certificate proving enrollment ~~be enrolled~~ in the last ~~trimester~~term of college
18 ~~received from~~ at an approved and accredited college of chiropractic. ~~An approved and~~
19 ~~accredited college of chiropractic within the meaning of this chapter is a college of chiropractic~~
20 ~~that is approved by the board and accredited by the council on chiropractic education or its~~
21 ~~successor or equivalent~~doctor of chiropractic program.

22 **SECTION 8. AMENDMENT.** Section 43-06-10.1 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-06-10.1. National board examination.**

25 The board ~~may in its discretion~~shall accept all parts of the national board examination in lieu
26 ~~of part of an examination for a license, or its successor or equivalent,~~ providing all other
27 requirements are met.

28 **SECTION 9. AMENDMENT.** Section 43-06-11 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **43-06-11. License - When issued - Who issues - Title used by licensed chiropractor.**

2 A license to practice chiropractic in this state must be issued by the board to an applicant
3 who has submitted proof of the required qualifications and passed the required examination.
4 ~~No~~A license to practice chiropractic may not be granted except upon the affirmative vote of at
5 least ~~three of the members~~a quorum of the board. A licensed chiropractor may use the title
6 doctor of chiropractic, chiropractor, chiropractic physician, or D.C.

7 **SECTION 10. AMENDMENT.** Section 43-06-13 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-06-13. Term of license - Renewal - Fee - Requirements.**

- 10 1. A license to practice chiropractic in this state is valid for one year ~~only~~ and must be
11 renewed on or before the first day of September of each year.
- 12 2. A renewal applicant shall pay a fee for renewal of a license. The fee for renewal of a
13 license ~~must~~shall be determined by the board from time to time, but may not exceed
14 five hundred dollars.
- 15 3. The board shall establish by rule the number of hours necessary for annual continuing
16 education. ~~Before it issues a renewal license, the board shall require each applicant~~
17 ~~who has a license to practice in this state to attend a postgraduate course sponsored~~
18 ~~by a college of chiropractic, accredited by the council on chiropractic education, or its~~
19 ~~successor or equivalent, a health-related seminar sponsored by an equally accredited~~
20 ~~college or university, a medical seminar qualifying for continuing education credits, or~~
21 ~~an educational program arranged by the North Dakota chiropractic association and~~
22 ~~approved by the board.~~
- 23 4. The board shall establish by rule the accepted programs for the annual continuing
24 education requirement.
- 25 5. A license ~~which~~that has not been renewed, as a result of nonpayment of annual
26 registration fees required by this chapter or as a result of the failure by the licensee to
27 attend the required annual continuing education, may be reinstated ~~upon payment to~~
28 ~~the board of the amount of renewal fees then in default or by certification that the~~
29 ~~required continuing education has been completed after the expiration of the previous~~
30 ~~license~~by procedure adopted by the board in administrative rules. In either case, the

board may charge an additional administrative fee to be fixed by the board at the time of consideration of the reinstatement, not to exceed four hundred dollars.

6. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a re-examination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of ~~its~~the board's discretion finds and determines ~~that~~ the best interests of the public and the applicant will be served thereby.

SECTION 11. AMENDMENT. Section 43-06-15 of the North Dakota Century Code is amended and reenacted as follows:

43-06-15. Grounds for denial of licensure, revocation, or suspension of license or other action of the board - ~~Sworn~~Signed written statement - Investigation - Hearing.

1. The board may deny an application for licensure and may revoke, suspend, or take such other action as provided in this section regarding the license of any chiropractor in this state who:

- a. Has a mental or physical condition such that the person is unable to safely engage in the practice of chiropractic.
- b. Has been declared incompetent or seriously mentally ill by a court of competent jurisdiction and thereafter has not been declared competent or released from supervision.
- c. Is suffering from alcoholism or drug addiction which endangers the public by impairing the chiropractor's ability to practice safely.
- d. Procured the license to practice by fraud or mistake.
- e. Has engaged in unprofessional or dishonorable conduct, including false or misleading advertising, rendering excessive or inappropriate treatment, or charging unconscionable fees.
- f. Has been convicted of a crime involving ~~moral turpitude~~sexual misconduct, infliction of physical harm or bodily injury to another individual, corruption, dishonesty, illegal possession or distribution of drugs, or any crime that would affect the person's ability to practice as a licensed chiropractor. A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence.

- 1 g. Has aided, assisted, or enabled any unlicensed person to practice chiropractic
2 contrary to this chapter or rule of the board.
- 3 h. Has engaged in the practice of abortion.
- 4 i. Has made use of any advertising statement of a character tending to deceive or
5 mislead the public.
- 6 j. Has failed to maintain a chiropractic facility in safe and sanitary conditions.
- 7 k. Has incurred a disciplinary action, suspension, or revocation in another
8 jurisdiction; has surrendered a license while a disciplinary complaint was pending
9 in another jurisdiction; or has entered a settlement agreement to avoid or resolve
10 a disciplinary complaint in another jurisdiction as a result of acts similar to acts
11 described in this section or rule of the board. A certified copy of the suspension or
12 revocation board order in the other jurisdiction is conclusive evidence.
- 13 l. Has committed any violation of the provisions of this chapter ~~and~~, the code of
14 ethics, or rules as adopted by the board, including the failure to submit for
15 physical or mental examination or to provide information as required by the
16 board.
- 17 m. Has practiced chiropractic while the license to practice was suspended or
18 revoked.
- 19 n. Has, while under probation, violated ~~its~~the terms of probation.
- 20 o. Has failed to properly supervise a certified chiropractic clinical assistant or who
21 has delegated duties to a certified chiropractic clinical assistant which are beyond
22 the assistant's education or training or which are beyond the scope of practice of
23 a certified chiropractic clinical assistant.
- 24 2. Any person, health care facility, business, or organization is immune from civil liability
25 or criminal prosecution for submitting a ~~sworn~~signed written statement and other
26 reports and information to the board under subsection 5 or for otherwise reporting to
27 the board violations or alleged violations under this chapter. The reports are not public
28 records.
- 29 3. Members of the board and persons employed by the board or engaged in the
30 investigation or prosecution of violations and in the preparation and management of
31 charges of violations of this chapter on behalf of the board, including members of any

peer review committee, are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

4. A doctor of chiropractic who is the subject of an investigation by, or on behalf of, the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of patient records or any pertinent information requested by the board, to assist the board in ~~its~~the board's investigation.

5. Any person, including a member of the board, may file a signed written statement and other reports and information with any member of the board against a licensed chiropractor charging the chiropractor with any of the offenses or conditions set forth in subsection 1, ~~which. The~~ statement must set forth a specification of the charges. When the statement has been filed, the board shall make an investigation as provided by subsection 6.

6. When the statement and other reports and information have been filed, the board shall notify the licensed chiropractor of the allegations and ~~shall thereafter make an investigation for the purpose of determining~~shall investigate to determine whether the allegations in the statement constitute a basis for further proceedings. The investigation must be conducted in such manner and at such time and place as in the judgment of the board will best ascertain the facts. The board may appoint a peer review committee. The board, in order to pursue the investigation, ~~has the power to~~may subpoena and examine witnesses and records, including patient records, and ~~to~~ copy, photograph, or take samples. ~~It~~The board may require the licensed chiropractor to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interests of the public that this evaluation be secured. The board may examine and review any relevant medical or psychological records, including test results and x-rays relative to the examination or treatment of the licensed chiropractor. A written request from the board constitutes authorization to release information. The medical or psychological information is not public record.

- 1 7. If, based on the investigation or report from a peer review committee, the board has
2 reasonable cause to believe ~~that~~ there is a basis for further proceedings, the board
3 shall prepare a complaint and serve ~~it~~the complaint, along with a notice of hearing, on
4 the licensed chiropractor and thereafter proceed with a hearing on the matter under
5 chapter 28-32. All hearings must be held in Bismarck ~~at the state capitol~~ unless the
6 board and the licensed chiropractor agree otherwise.
- 7 8. After the hearing, the board, under section 28-32-39, shall make and give notice of
8 ~~its~~the board's determination or decision as to whether the offenses charged have been
9 committed or the conditions charged do not exist. If the finding is in the negative, the
10 board shall dismiss the charges. If the finding is in the affirmative, the board shall:
- 11 a. ~~Revoke~~Shall revoke the license;
- 12 b. ~~Suspend~~Shall suspend the licensee's right to practice for a period not to exceed
13 one year;
- 14 c. ~~Suspend its~~Shall suspend the board's judgment of revocation on terms and
15 conditions determined by the board;
- 16 d. ~~Place~~Shall place the licensee on probation; or
- 17 e. ~~Take~~Shall take any other disciplinary action which the board in ~~its~~the board's
18 discretion considers proper, including the ordering of an adjustment to a patient's
19 bill or refund of ~~such an~~ amount previously paid, including reasonable interest
20 from the date of the order, to a patient or payer of any unconscionable fees for
21 chiropractic services.
- 22 f. In addition to the actions imposed in subdivisions a through e, ~~the board~~ may:
- 23 (1) Require payment of all costs of proceedings resulting in a disciplinary
24 action, including administrative costs, investigation costs, attorney's fees,
25 peer review committee costs, witness costs and fees, the costs of the
26 offices of administrative hearings services, and court costs.
- 27 (2) Impose a civil penalty not exceeding ten thousand dollars for each separate
28 violation, to deprive the chiropractor of any economic advantage gained by
29 reason of the violation found and to reimburse the board for the cost of the
30 investigation and proceedings.

1 9. In cases of revocation, suspension, or probation, the board shall record the facts of the
2 case and all actions of the board.

3 10. On the expiration of a term of suspension, the licensee must be reinstated by the
4 board if the chiropractor applies to the board and furnishes evidence, satisfactory to
5 the board, that the licensee is then of good character and conduct or restored to good
6 health and ~~that~~ the licensee has not practiced chiropractic during the term of
7 suspension and is competent to practice in this state. If the evidence fails to establish
8 those facts to the satisfaction of the board, the board may require the applicant to
9 submit to an examination in accordance with ~~sections 43-06-08 through 43-06-12~~this
10 chapter or shall proceed to hearing on revocation with notice as provided in
11 subsection 7.

12 11. Any licensed chiropractor may take corrective action or voluntarily relinquish the
13 chiropractor's license to the board before a formal order of the board on such terms
14 and conditions as may be agreed by the licensed chiropractor and the board.

15 **SECTION 12. AMENDMENT.** Section 43-06-16.1 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-06-16.1. Certified chiropractic clinical assistant.**

18 1. A person may not practice as a certified chiropractic clinical assistant or claim to be a
19 chiropractic assistant without certification from the board. The fee for initial certification
20 ~~is fifty~~may not exceed one hundred dollars per year and must be set by the board from
21 time to time. The board may grant a temporary certification to an initial applicant who
22 is waiting for a criminal history background check to be completed. This temporary
23 certification expires automatically upon the applicant receiving a regular certification or
24 being notified the application has been denied.

25 2. To be certified to practice as a certified chiropractic clinical assistant, an applicant
26 ~~must~~shall provide evidence satisfactory to the board the applicant:
27 a. Graduated from high school, or holds a graduate equivalency degree.
28 b. Is at least eighteen years of age.
29 c. Successfully completed the certified chiropractic clinical assistant program and
30 examination by the federation of chiropractic licensing boards. ~~However,~~
31 ~~applicants for initial certification before March 1, 2018, and who have verified~~

1 employment of two thousand hours as a chiropractic assistant within the three-
2 years before August 1, 2017, and submitted evidence of passing the certified-
3 chiropractic clinical assistant examination by the national board of chiropractic-
4 examiners via the federation of chiropractic licensing boards, qualify for
5 certification without meeting the coursework requirement of the program.

6 d. ~~Is of good moral character and submits documentation of good moral character-~~
7 ~~as prescribed by the board, including criminal records review~~Successfully
8 completed a criminal history record check as authorized by section 43-06-11.1.

9 e. Completed an application in a manner and form provided by the board.

10 f. Paid all applicable fees relative to the application process as determined by the
11 board.

12 g. Received practical experience to the extent required to demonstrate competency
13 to safely provide patient care pertinent to the chiropractic office at which the
14 certified chiropractic clinical assistant is employed.

15 3. A certified chiropractic clinical assistant who is certified in another jurisdiction may
16 apply for certification. The applicant shall provide evidence satisfactory to the board
17 the applicant:

18 a. Has current practice privilege in good standing as a certified chiropractic clinical
19 assistant or equivalent granted by at least one jurisdiction with requirements
20 similar to or greater than the ~~requirement~~requirements of this board; and

21 b. Presented to the board current documentation that any practice privilege granted
22 by another jurisdiction as a certified chiropractic clinical assistant or equivalent
23 has not been suspended, revoked, or otherwise restricted for any reason except
24 nonrenewal.

25 4. A minimum ~~passing~~ examination score of ~~seventy-five percent~~result is required to
26 obtain certification. ~~The examination must be provided by the national board of~~
27 ~~chiropractic examiners via the federation of chiropractic licensing boards or a~~
28 ~~board-approved examination~~The board may accept a chiropractic clinical assistant
29 program examination such as the federation of chiropractic licensing board-certified
30 chiropractic clinical assistant program examination or its board-approved successor or
31 equivalent.

- 1 5. The fee for renewal of the certification ~~is fifty~~may not exceed one hundred dollars per
2 year and must be set by the board from time to time. ~~Certificate renewal is~~A certificate
3 in this state is valid for one year and must be renewed on or before March first of
4 every year.
- 5 a. A certified chiropractic clinical assistant shall obtain ~~six~~three hours of continuing
6 education every ~~two years~~year after the initial certification to renew certification.
7 These hours must be a program or seminar approved by providers of approved
8 continuing education, ~~a seminar sponsored by the North Dakota chiropractic~~
9 ~~association and approved by the board,~~ or a seminar approved for continuing
10 education by another state's board of chiropractic examiners or equivalent, or a
11 seminar otherwise approved by the board. Proof of meeting continuing education
12 requirements must be submitted with the certified chiropractic clinical assistant's
13 renewal application ~~on the even-numbered years after initially receiving~~
14 certification.
- 15 b. For an applicant who first receives initial certification between ~~January~~December
16 first of the year immediately before renewal and March first, the certification is
17 deemed to be automatically renewed on March first for an additional year without
18 payment of an additional renewal fee.
- 19 6. A certified chiropractic clinical assistant must be under the direct supervision of a
20 North Dakota licensed chiropractor in good standing with the board. Direct supervision
21 means the oversight provided by the chiropractor over the clinical services performed
22 by a certified chiropractic clinical assistant, and requires the chiropractor to be on the
23 premises at all times and readily available to instruct the certified chiropractic clinical
24 assistant throughout the performance of the clinical services.
- 25 7. The certified chiropractic clinical assistant may assist the chiropractor in patient care
26 involving physiotherapy, electrotherapy, hydrotherapy, chiropractic rehabilitative
27 therapy, administrative processes, and other activities as needed to assist in the
28 practice of chiropractic. The certified chiropractic clinical assistant may perform
29 delegated duties commensurate with the certified chiropractic clinical assistant's
30 education and training, but may not evaluate, interpret, design, or modify established
31 treatment programs of chiropractic care or violate any statute. Certified chiropractic

clinical assistants may not participate in clinical decisionmaking, render manipulative chiropractic care, create or change the course of a chiropractic treatment plan, or represent themselves as independent health care providers. A certified chiropractic clinical assistant may not perform medical imaging unless also licensed under chapter 43-62 ~~or upon meeting an exception from that chapter.~~

8. The board may deny certification of an applicant, or may revoke, suspend, or take other appropriate disciplinary or corrective action regarding the certification of any certified chiropractic clinical assistant who:

- a. Has a mental or physical condition that renders the individual unable to safely engage in patient care.
- b. Has been declared incompetent by a court.
- c. Is suffering from alcoholism or drug addiction that endangers the public by impairing the certified chiropractic clinical assistant's ability to practice safely.
- d. Procured the certification to practice by fraud or mistake.
- e. Has engaged in unprofessional or dishonorable conduct.
- f. Has been convicted of a crime involving ~~moral turpitude~~ sexual misconduct, infliction or physical harm or bodily injury to another individual, corruption, or dishonesty which would affect the certified chiropractic clinical assistant's ability to safely engage in patient care.
- g. Has aided or assisted a noncertified individual to practice as a certified chiropractic clinical assistant.
- h. Has made advertising statements that are deceiving or misleading to the public.
- i. Has had disciplinary action taken in another jurisdiction.
- j. Has committed any violation of regulations regarding chiropractic found in this chapter or rules adopted by the board.
- k. Has practiced as a certified chiropractic clinical assistant while the certification was suspended or revoked.
- l. Is found ~~guilty of~~ to have committed unprofessional conduct ~~that, which~~ includes:
 - (1) Willfully harassing, abusing, or intimidating a patient either physically or verbally.

- 1 (2) Any conduct that has endangered or is likely to endanger the health or
2 safety of the public.
- 3 (3) Conviction of a crime related to the qualification of a certified chiropractic
4 clinical assistant.
- 5 (4) Conviction of a felony or any offense involving ~~moral turpitude~~ sexual
6 misconduct, infliction of physical harm or bodily injury to another individual,
7 dishonesty, or corruption.
- 8 (5) Conviction of violating any law or regulation concerning the dispensing or
9 administration of narcotics, dangerous drugs, or controlled substances.
- 10 (6) Knowingly making or signing any false certificates related to the chiropractic
11 care administered.
- 12 (7) Participation in any act of fraud.
- 13 (8) Except as required by law, the unauthorized disclosure of any information
14 about a patient revealed or discovered during the course of examination or
15 treatment.
- 16 (9) Delegating professional responsibilities to a person that is not certified to
17 provide the services.
- 18 (10) Initiating or engaging in any sexual conduct, sexual activities, or sexualizing
19 behavior involving a current patient even if the patient attempts to sexualize
20 the relationship, except when the patient is the certified chiropractic clinical
21 assistant's spouse or significant other.
- 22 9. Disciplinary procedures will be conducted in accordance with chapter 28-32, with the
23 following provisions:
 - 24 a. Complaints must be filed and signed in written form or may be considered by the
25 board on ~~its~~ the board's own motion.
 - 26 b. The board shall notify the certified chiropractic clinical assistant and the employer
27 regarding any complaints filed. Full and timely cooperation is required in the
28 investigation.
 - 29 c. The board may appoint a peer review committee at ~~its~~ the board's discretion. The
30 peer review committee has the same authority as a peer review committee
31 appointed under section 43-06-14.1.

1 d. If the board finds probable cause to impose disciplinary action, the board shall
2 prepare a complaint and serve ~~it~~the complaint to the certified chiropractic clinical
3 assistant and employer.

4 10. Certification is not required for individuals who solely perform administrative activities
5 of a nonclinical nature.

6 **SECTION 13. AMENDMENT.** Section 43-06-18 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-06-18. State's attorney to enforce law.**

9 The state's attorney of each county in this state shall enforce section 43-06-19 and
10 prosecute all violations thereofof this section, and the ~~secretary-treasurer~~executive director of
11 the board, under the direction of the board, shall aid in the enforcement of this chapter.

12 **SECTION 14. REPEAL.** Sections 43-06-10 and 43-06-12 of the North Dakota Century
13 Code are repealed.

Kasper, Jim M.

From: ND Board of Chiropractic Examiners <contact@ndsbce.org>
Sent: Tuesday, March 9, 2021 8:08 AM
To: Kasper, Jim M.; Lefor, Mike
Subject: Follow-up from ND Board of Chiropractic Examiners Sexual Impropriety
Attachments: 2021 Title 17.pdf

Importance: Low

***** **CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Representative Kasper & Chairman Lefor,

Dr. Ficek asked that I pass along the information regarding Sexual Impropriety that Representative Kasper requested during the hearing for SB2060 yesterday morning.

We believe that the question asked is covered between the Administrative Rules adopted by the Board and the Century Code.

The ND Administrative Code, Title 17, (Dr. Ficek read this section) under Unprofessional Conduct.

17-03-01-01 Unprofessional Conduct

The Board may revoke, suspend, or deny a license to any person otherwise qualified or licensed by the board who is found to have committed unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:
(22) Initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a current patient, even if the patient attempts to sexualize the relationship, except when the patient is the chiropractor's spouse or significant other.

The ND Century Code 43-06-15 Grounds for Revocation or Suspension of license or other action of the board – Sworn Statement-Investigation-Hearing.

1. The board may revoke, suspend, or take such other action as provided in this section regarding the license of any chiropractor in this state who:
(l.) Has committed any violation of the provisions of this chapter and the code of ethics **or rules as adopted by the board**, including failure to submit for physical or mental examination or to provide information as required by the board.

The due process for the complaint, investigation, and action will be exactly as Dr. Ficek described during his testimony, which is listed in the Century Code 43-06-15: #2 - #11

I have attached a PDF version of ND Administrative Code Title 17 for your reference, if needed.

If you have any additional follow-up questions, please contact me and I will do my best to provide a response.

-Lisa Blanchard

Sincerely,
Lisa Blanchard, Executive Director
ND Board of Chiropractic Examiners

PO Box 185
Grafton, ND 58237
(701) 213-0476
Fax: (855) 450-2153
contact@ndsbce.org