

**2025 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1512**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1512  
2/3/2025

A BILL for an Act to amend and reenact sections 43-28-03 and 43-28-18.2 of the North Dakota Century Code, relating to members of the state board of dental examiners and an individual's ability to file a complaint.

9:00 a.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVill, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

### **Discussion Topics:**

- Make up and procedures
- Process for filing a complaint
- Open records laws
- Patient health and safety

9:01 a.m. Representative Don Vigasaa, District 29, Cooperstown, ND, introduced and testified and submitted testimony #33716.

9:06 a.m. Jerome Francis, District 29, Hannaford, ND, testified in favor.

9:12 a.m. David Schaibley, Executive Director, ND State Board of Dental Examiners, testified in opposition and submitted testimony #33502.

9:56 a.m. William R. Sherwin, Executive Director, ND Dental Association, testified in opposition.

10:30 a.m. Chairman Warrey closed the meeting.

*Diane Lillis, Committee Clerk*



# North Dakota State Board of Dental Examiners

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## House Industry, Business, and Labor Committee

February 3, 2025; 9:00 am

State Capitol; 327C

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Testimony of the North Dakota State Board of Dental Examiners

HB 1512

### **I. Introduction and Background**

Chair Warrey and members of the House Industry, Business, and Labor Committee, my name is David Schaibley, and I'm the Executive Director of your North Dakota State Board of Dental Examiners. I'm here today providing the Board's testimony on HB 1512.

Since before statehood, the Board has been made up primarily of skilled dental professionals who use their technical expertise to regulate the practice of dentistry in ways that result in safe, quality dental care in our state. As Board members, they assess the content of dental education program curriculum; analyze applicants' dental skills, competency and disciplinary history; review the many skilled duties that are carried out in a dental office; and assess the type of dental training that is to be required before someone is allowed to perform duties that could put patients at grave risk if done improperly.

This Bill would go a long way toward changing that historical purpose by greatly expanding the Board's authority—making it more closely resemble a jury with power to issue large monetary judgments. My testimony today will discuss the Bill's four changes in pairs, in hopes of better highlighting how they operate together to do that.

### **II. Consumer Members (P1; L9) and Patient Entitlement to Costs (P3; L6-7)**

The first change increases the number of consumer members on the Board to three—at which point consumers are only one member shy of a quorum. The Board

presently has a consumer member position and benefits greatly from her perspective. But giving the consumer perspective three times more influence than dental hygienists have on the Board, or that dental assistants have on the Board, seems to create an imbalance. And for what purpose?

Well, with that newly reconstituted Board in mind, I'd like to turn quickly to the last change in the Bill. It apparently mandates this issuance of a monetary award to consumer/patients by granting them an "entitlement" to recover costs in every case where discipline is warranted.

Having three consumer members on the Board seems designed to make the Board look and act more like a jury. And the perception seems to be that a board that resembles a jury is more likely to vote in favor of discipline—and that it would also be more likely to vote for higher dollar amounts of costs being awarded to the patients.

Issuing monetary awards that could easily rise into the hundreds of thousands of dollars is a drastic change to the purpose of the Board and is an immense amount of power to give to any licensing board. And it is a power the Dental Board is not seeking.

Aside from the Board wanting to make you aware of this material change to the Board's purpose, it would also like to share some detailed concerns about these two provisions:

- The language seems to lack any Board discretion. So it seems as soon as discipline is found, a patient immediately has a right to an "entitlement" and not just a chance at being granted an award.
- The language also seems to lack an actual role of the Board in granting the entitlement.
- There does not seem to be a limit on the kinds of costs that can be recovered (e.g., refunds; lost wages; pain and suffering; emotional distress; the costs of an attorney; the costs of litigation; etc.);

-Dentists might seek their own entitlement. They might ask you to consider granting them an entitlement to recover money from the consumer for unpaid costs in the form of invoices.

-There doesn't seem to be an awareness of how the Board will function in its technical dental roles once nearly one third of its members are consumers. Just like the other Board members, these three consumers will be obligated to make all the decisions on all sorts of dental issues—not just complaints—without having any dental training to guide them.

-Consumer positions are historically not easy to fill on licensing boards.

### **III. Mandating a Complaints “Committee” (P2; L11-12) and the Release of Responses at Preliminary Stages of Investigations (P2; L8).**

These two changes work in unison with the first pair, but are also perhaps easier to understand in their own pairing. They seem designed not only to lead to increased disciplinary findings and monetary entitlements like the first pair, but also seem designed to use the Board as a tool for creating evidence that otherwise wouldn't exist—and that can be used in litigation.

I'll first turn to the release of responses. In looking at that change it is important to understand how open records laws currently operate on these documents. Our laws allow for transparency and the release of records, but with some limits that this part of the Bill would eliminate.

We all know that complaints can harm any business. That's fair. And it's a risk any business owner has to accept.

But sometimes complaints contain inaccurate or incomplete information, or can even be purposely false and designed to harm a business or individual.

Our open records laws are written to allow for transparency, but in a way that prevents the Board from being used as a tool to aid in unfairly harming a dentist's, hygienist's, or assistant's reputation or business.

These laws require us to release complaint file information like responses once the Board concludes that discipline is warranted. That seems fair. The government should not be ‘hiding’ information about a dentist whose conduct resulted in discipline.

But the law also allows us to not release complaint file information (e.g., responses) when the Board has found no cause for discipline. That limit prevents the Board from being used as a way to increase the harm unfounded allegations can have. Because if we are required to release responses to the patient, the patient can then make that response as public as they want—posting it online, or what have you. And that response would never have existed except for the fact that the Board required it from the dentist. And now their own words responding to an unfounded complaint can be used to even further harm their own business.

Perhaps just as importantly, that response to an unsupported complaint could also be used in lawsuits against the dentist, hygienist, or assistant. Because sometimes their responses contain statements where the dental professional might not only explain why their conduct was justified, but they might also use words that could sound like an admission of guilt (e.g., saying they wish it had gone differently; offering refunds; apologizing; etc.). These honest statements accepting responsibility or expressing regret could be harmful statements when used against the dental professional in litigation.

Were this change to be adopted, it would seem to make dentists, hygienists, and assistants all strongly consider hiring lawyers before ever responding to any complaint filed with the Board. They would want to ensure they don’t make potentially problematic statements. This would greatly increase the cost, expense, and time for everyone involved in a complaint.

And now turning to the remaining change suggested by this Bill. It is a one-word change that, while perhaps less obvious, would also mandate inefficiencies and could be used to create evidence that wouldn’t otherwise exist.

At present, the Board processes complaints using either the ‘Portfolio Model’ where one Board member is assigned to work on a complaint, or they can use the ‘Committee Model’ where complaints are only worked on by that grouping. The Board has the option of using whichever model is more efficient on any particular complaint.

The Board often uses the Portfolio Model. In it we assign a complaint to a single Board member who works on the file, gathers information, and then provides the entire file to the full Board. The full Board, at a noticed meeting, reviews all information, perhaps seeks more documentation, and arrives at a decision.

The Board can also use the Committee Model. It usually uses that on more complex complaints. But using that model is a bit more complicated. The way it works is a Complaint Committee Board member contacts me in order to set up a committee meeting; I then work with all the committee members to find a time where they could all meet; we post the meeting notice at the Secretary of State's Office website and on our website; we find a room, create an online room, or both; we convene the members; we ask the public to leave because we are required to go into executive session for complaints; we record that session; we have the meeting; we close the meeting; we create minutes; etc. And then if another piece of evidence arrives the next day, we go through that same process again. But then just like in the Portfolio Model, the full complaint file is presented to the entire Board for review and discussion at one of our public Board meetings. So you can see that while the Committee Model can be useful in a complex complaint, it is also a far more inefficient model to use.

Forcing us to always use this model for every single complaint would substantially slow down our processing of complaints, create additional work, and cost everyone involved more time, money, and frustration. But another result that mandating the Committee Model would have—and one that it seems this Bill might be aiming for—is that the process involved in using the Committee Model creates a trail of documents and recordings on even the most unsupportable and vindictive complaints. And those documents could be sought out for use in litigation. And when tied back to the release of complaint file materials like responses, we'd have no choice but to release those—thereby making them public—with the resultant potential harm to reputations.

#### **IV. Conclusion**

In conclusion, I want to share that your Dental Board members work hard to meet their obligations for regulating dental professionals, and they take their responsibility of

protecting consumers seriously. Board members are patients themselves. They go to the dentist; so do their spouses, kids, nieces, cousins, and neighbors. So, it seems unfair to conclude that dental professionals can't understand a patient's concerns and will always side with another dentist's interests.

Another example of this consumer point of view on the Board is that the Board is regularly approached by its partners and stakeholders in the dental field, such as dentists and associations who seek changes to laws, rules, or policies that dentists would prefer. I think they'd be the first to tell you that the Board does not always accept dentist-focused positions. It regularly disagrees with some or all of a suggestion in favor of more patient-centered approaches.

The Board can understand the frustrations that resulted in this Bill, but it asks that you thoughtfully consider its concerns. Your Dental Board is made up of dental experts fully competent to carry out the roles you have already given them, but they are less sure about serving in a role very similar to a judge and jury. They do not relish the idea of spending hours and days each year hearing evidence and testimony from lawyers and experts about the many and varied costs that a patient might be entitled to, the harm they suffered, and the related financial calculations. Board members are already volunteering to take days away from their patients and businesses every year to serve on the Board. If this Bill passes, their workload would seem to increase exponentially when consumers and their attorneys see that they can use North Dakota licensing boards as an easier path toward financial awards and entitlements to cash. That is an immense amount of power for a licensing board to wield and a substantial change in our Board's purpose. And keep in mind that if you do not pass this Bill, there is already a place for these types of disputes—the courthouse.

Thank you for your time. I am happy to address any questions.

**Prepared and Presented by:**

David Schaibley

Executive Director of the North Dakota State Board of Dental Examiners

[david@nddentalboard.org](mailto:david@nddentalboard.org); 701-258-8600



## Testimony on HB 1512

Good morning, Chairman Warrey and members of the Industry, Business and Labor Committee. I am Representative Don Vigesaa from District 29 in east central North Dakota. I represent Griggs County, Steele County, Foster County, Nelson County and most of rural Stutsman County. It is my privilege to introduce HB 1512 on behalf of a constituent from District 29. My constituent had an unpleasant dental experience which will cost him tens of thousands of dollars to rectify. He seeks no remedy from his experience but wishes to make changes to the make-up and procedures of the State Board of Dental Examiners to enable consumers in the future to avoid situations like he experienced.

HB 1512 amends 43-28-03 and 43-28-18.2 of the NDCC relating to members of the state board of dental examiners and an individual's ability to file a complaint. Section 1 adds two additional independent consumer members to the board. Section 2 states that the board shall direct a complaint committee to investigate a consumer complaint and that the consumer filing the complaint must receive a copy of the dentist's response. Finally, also in section 2, an individual who filed a complaint, resulting in disciplinary action or a finding of misconduct, is entitled to recover their costs incurred.

Mr. Chairman and members of the committee, please give strong consideration to the changes suggested in HB 1512. When you hear about the journey my constituent is experiencing, I believe you will agree that processes could be enhanced to improve consumer satisfaction when disputes arise.

Thank you,

Rep. Don Vigesaa

District 29

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1512  
2/5/2025

A BILL for an Act to amend and reenact sections 43-28-03 and 43-28-18.2 of the North Dakota Century Code, relating to members of the state board of dental examiners and an individual's ability to file a complaint.

3:14 p.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVile, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Members Absent: Representatives Christy, Kasper

### Discussion Topics:

- Quorum qualifications
- Addition of consumer members
- Public records request
- Copy to complainant

3:16 p.m. Representative D. Ruby moved Do Not Pass.

3:16 p.m. Representative Grindberg seconded the motion.

3:20 p.m. Representative D. Ruby withdrew his motion.

3:27 p.m. Representative Koppelman moved adopt amendment LC #25.1178.02001, #38815.

3:27 p.m. Representative D. Ruby seconded the motion.

Voice vote.

Motion passed.

3:30 p.m. Representative Koppelman moved Do Pass as amended.

3:30 p.m. Representative D. Ruby seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	N
Representative Landon Bahl	Y
Representative Collette Brown	AB

Representative Josh Christy	AB
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jorin Johnson	N
Representative Jim Kasper	AB
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Mike Schatz	N
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

Motion passed 7-3-4.

3:31 p.m. Representative Koppelman will carry the bill.

3:31 p.m. Chairman Warrey closed the meeting.

*Diane Lillis, Committee Clerk*

February 5, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1512**

Introduced by

Representatives Vigesaa, B. Anderson, Beltz, Frelich, Hager

Senators Conley, Mathern, Walen

2-5-23

JLB lab3

1 A BILL for an Act to amend and reenact ~~sections 43-28-03 and~~ section 43-28-18.2 of the North  
2 Dakota Century Code, relating to ~~members of the state board of dental examiners and an~~  
3 individual's ability to file a complaint.

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

5 ~~**SECTION 1. AMENDMENT.** Section 43-28-03 of the North Dakota Century Code is~~  
6 ~~amended and reenacted as follows:~~

7 ~~**43-28-03. State board of dental examiners - Members - Appointment - Terms of office -**~~  
8 ~~**Oath - Vacancies.**~~

9 ~~1. The state board of dental examiners consists of nineeleven members appointed by the~~  
10 ~~governor. The membership of the board must include six:~~

11 ~~a. Six dentist members, at least one of whom is a board-eligible or board-certified~~  
12 ~~oral and maxillofacial surgeon; one~~

13 ~~b. One dental hygienist member; one~~

14 ~~c. One dental assistant member; and one~~

15 ~~d. Three independent consumer membermembers.~~

16 ~~2. Appointment to the board is for a term of five years, with terms of office arranged~~  
17 ~~so no more than two terms expire on March sixteenth of each year. Each member of~~  
18 ~~the board shall hold office until a successor is appointed and qualified. An individual~~  
19 ~~appointed to the board qualifies by taking the oath required of civil officers. A member~~  
20 ~~may not serve more than ten years or two 5-year terms of office. If a member of the~~



*Jim 7063*

~~board is absent from two consecutive regular meetings, the board may declare a  
vacancy to exist. All vacancies on the board must be filled by the governor by  
appointment.~~

**SECTION 1. AMENDMENT.** Section 43-28-18.2 of the North Dakota Century Code is  
amended and reenacted as follows:

**43-28-18.2. Disciplinary procedure.**

1. A person ~~An individual~~ may file a written and signed complaint with the board alleging a dentist engaged in conduct identified as grounds for disciplinary action under section 43-28-18. The board may also initiate a complaint and investigation on the board's motion.
2. The board ~~may~~shall direct a complaint committee to investigate a complaint and recommend whether the board should initiate a disciplinary action against the dentist.
3. The board or complaint committee shall notify the dentist of the complaint, and require a written response from the dentist. If the complaint was initiated by an individual, that individual must receive a copy of the dentist's response. The board or complaint committee may examine and copy records, including patient records, examine witnesses, obtain expert opinions, require the dentist to be physically or mentally examined, or both, by qualified professionals selected by the board, and take any other action necessary to investigate the complaint. A request by the board or complaint committee is authorized to disclose patient information and records to the board or complaint committee. Patient information and records disclosed to the board or complaint committee are confidential. The dentist shall cooperate with the board or the complaint committee in the investigation, including responding promptly and completely to a request or requirement.
4. The complaint, response, and any record received by the board in investigating the complaint are exempt records, as defined in section 44-04-17.1, until the board determines to proceed with a disciplinary action.
5. The board shall determine if there is a reasonable basis to believe the dentist engaged in conduct identified as grounds for disciplinary action under section 43-28-18. If the board determines there is not a reasonable basis to believe, the board shall notify the complainant and the dentist. If the board determines there is a reasonable basis to

*Jim 3rd 3*

- 1 believe, the board shall proceed with a disciplinary action in accordance with chapter
- 2 28-32.
- 3 6. The board, at any time, may offer or accept a proposal for informal resolution of the
- 4 complaint or disciplinary action.
- 5 7. The board may impose a fee on the dentist for all or part of the costs of an action
- 6 resulting in discipline, including administrative costs, investigation costs, attorney's
- 7 fees, witness fees, the cost of the office of administrative hearings' services, and court
- 8 costs. ~~An individual who filed a complaint, resulting in disciplinary action or a finding of~~
- 9 ~~misconduct under section 43-28-18, is entitled to recover costs incurred.~~

**REPORT OF STANDING COMMITTEE  
HB 1512**

**Industry, Business and Labor Committee (Rep. Warrey, Chairman)** recommends **AMENDMENTS** ([25.1178.02001](#)) and when so amended, recommends **DO PASS** (7 YEAS, 3 NAYS, 4 ABSENT AND NOT VOTING). HB 1512 was placed on the Sixth order on the calendar.

25.1178.02001  
Title.03000

Adopted by the Industry, Business and  
Labor Committee  
February 5, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### HOUSE BILL NO. 1512

Introduced by

Representatives Vigesaa, B. Anderson, Beltz, Frelich, Hager

Senators Conley, Mathern, Walen

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~~board is absent from two consecutive regular meetings, the board may declare a  
vacancy to exist. All vacancies on the board must be filled by the governor by  
appointment.~~

**SECTION 1. AMENDMENT.** Section 43-28-18.2 of the North Dakota Century Code is  
amended and reenacted as follows:

**43-28-18.2. Disciplinary procedure.**

1. ~~A person~~An individual may file a written and signed complaint with the board alleging a dentist engaged in conduct identified as grounds for disciplinary action under section 43-28-18. The board may also initiate a complaint and investigation on the board's motion.
2. The board ~~may~~shall direct a complaint committee to investigate a complaint and recommend whether the board should initiate a disciplinary action against the dentist.
3. The board or complaint committee shall notify the dentist of the complaint, and require a written response from the dentist. If the complaint was initiated by an individual, that individual must receive a copy of the dentist's response. The board or complaint committee may examine and copy records, including patient records, examine witnesses, obtain expert opinions, require the dentist to be physically or mentally examined, or both, by qualified professionals selected by the board, and take any other action necessary to investigate the complaint. A request by the board or complaint committee is authorized to disclose patient information and records to the board or complaint committee. Patient information and records disclosed to the board or complaint committee are confidential. The dentist shall cooperate with the board or the complaint committee in the investigation, including responding promptly and completely to a request or requirement.
4. The complaint, response, and any record received by the board in investigating the complaint are exempt records, as defined in section 44-04-17.1, until the board determines to proceed with a disciplinary action.
5. The board shall determine if there is a reasonable basis to believe the dentist engaged in conduct identified as grounds for disciplinary action under section 43-28-18. If the board determines there is not a reasonable basis to believe, the board shall notify the complainant and the dentist. If the board determines there is a reasonable basis to

- 1 believe, the board shall proceed with a disciplinary action in accordance with chapter  
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7 fees, witness fees, the cost of the office of administrative hearings' services, and court  
8 costs. ~~An individual who filed a complaint, resulting in disciplinary action or a finding of~~  
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**2025 SENATE WORKFORCE DEVELOPMENT**

**HB 1512**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1512  
3/20/2025

A BILL for an Act to amend and reenact section 43-28-18.2 of the North Dakota Century Code, relating to an individual's ability to file a complaint.

2:30 p.m. Chairman Wobbema called the meeting to order.

Members Present: Chairman Wobbema, Vice-Chairman Axtman, Senator Boschee, Senator Larson, Senator Powers.

### **Discussion Topics:**

- Reimbursement of expenses
- Complaint Process Timeline
- HIPAA Violations

2:31 p.m. Representative Don Vigesaa introduced the bill.

2:37 p.m. David J. Schaibley, Executive Director of ND State Board of Dental Examiners, testified in opposition and submitted testimony #43238.

3:11 p.m. William Sherwin, Executive Director of ND Dental Association, testified in favor and submitted testimony #43656.

3:16 p.m. Chairman Wobbema adjourned the hearing.

*Andrew Ficek, Committee Clerk*



# North Dakota State Board of Dental Examiners

PO Box 7246, Bismarck, ND 58507-7246 • [info@nddentalboard.org](mailto:info@nddentalboard.org) • 701.258.8600 • <https://www.nddentalboard.org>

## Senate Workforce Development Committee

March 20, 2025; 2:30 pm

State Capitol; Fort Lincoln Room

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Testimony of the North Dakota State Board of Dental Examiners

HB 1512

### **I. Introduction and Background**

Chair Wobbema and members of the Senate Workforce Development Committee, my name is David Schaibley—Executive Director of the North Dakota State Board of Dental Examiners. I'm here today providing the Board's testimony respectfully opposing HB 1512.

In recent years, the Board has made significant changes designed to increase efficiency in many aspects of its work. One area where it has focused those efforts is in its investigation and processing of complaints. The Board seeks to share its concerns that the passage of HB 1512 would undo those efficiencies while also having potential negative impacts on the complainants, patients, dental staff, and others who might be involved in a Board investigation.

### **II. Change on Page 1; Line 11**

A past criticism of the Board was that its administration of complaints was too slow. It thoughtfully assessed those criticisms, and implemented a more efficient process that effectively eliminated those criticisms without negatively impacting fairness, patient rights, or the results of Board investigations. It did so by making more efficient use of a law that has been in place for decades. That law allows the Board to assign the investigation of a complaint to either a committee or to a single board member.

For relatively non-complicated complaints the Board assigns a single Board member to investigate. Efficiencies are gained because a single investigator can work

steadily and without pausing their work to post public meeting notices and hold committee meetings before taking next steps.

But in more complex matters, the Board has found it efficient to use a complaints committee. In these files, efficiencies can be gained through the use of the committee because more complex investigations often result in heavier workloads, and sharing that work among multiple Board members can be effective.

Whether a single Board member or a committee investigates a complaint, however, both sides are assured of the same level of fairness. Fairness is ensured because every complaint is still reviewed by the full Board, and the Board can always redirect more investigation before it arrives at a disciplinary decision.

Because the change at P1; L11 would mandate the use of a committee for every complaint, the Board is concerned its complaint processing will be substantially slowed and return us to a time when dissatisfaction with our process was more prevalent.

### **III. Change on Page 1; Line 14-15**

The second proposed change modifies the way sensitive records related to complaint investigations are released. While at first glance the wording of this change seems to only have an impact on the release of a single type of document, the Board feels obligated to raise its potentially more far-reaching impacts.

Before sharing those impacts, it may be helpful to first summarize how these documents are handled today. Under existing law, the entire complaint file (including the response) is an exempt record during the time when the investigation is going on. Then, if the Board decides discipline is warranted, the entire complaint file (including the response) becomes an open record. But of course, a patient's confidential medical information is not released to third parties.

This process has worked exceptionally well for decades, and has never been a reason for concern. Changing them could undo protections and negatively impact those involved in the complaint process as follows.

#### **A. Impact on Patients the Board is Obligated to Protect**

The language mandates that complainants are to be given the dental staff's responses. One concern is that the complainant might not necessarily be the patient.

Anyone can submit a complaint—whether or not they are a patient. Even though the Board can withhold medical records, a response would likely still contain sensitive information the patient would rather keep private. And once the documents are released to that third party, the documents could be used for purposes the patient does not appreciate, could be posted online, could cause harm to the patient, etc. The Board is concerned that it will not only have a reduced ability to protect patients and the public, but that this change may actually cause the Board to harm patients by releasing their information to a third party.

#### B. Impact on the Effectiveness and Efficiency of Board Investigations

Assistants, hygienists, and dentists will be aware that responses they file on any complaint will always be released—with its potential harm to the patient and perhaps even to the dental staff in having their words released and potentially publicly circulated. Assistants, hygienists, and dentists might be reluctant, then, to fully participate in Board investigations. Without full participation, the Board investigations may be less comprehensive, and the Board may be less able to arrive at the right disciplinary decision. This could hinder the Board's ability to effectively carry out its responsibilities of investigating complaints and protecting the public.

Additionally, it seems likely that the progress toward efficient processing of complaints may be lost if assistants, hygienists, and dentists are more hesitant to provide complete responses to the Board, and if patients intervene with concerns that their records might get released to third parties.

#### C. Impact on Perceptions of the Government

Customer dissatisfaction is a part of doing business—and dental offices are no exception. Disappointed consumers can always make negative statements about their dental offices or any business or their neighbors, online, or elsewhere. That is to be expected. And harm can result from those criticisms.

But this proposed change could cause the government itself (through the Board) to increase that potential harm when complaints are filed with it. Specifically:

- When customer dissatisfaction statements are posted online or out in the world in general, the businesses or employees are not forced to respond.

- But when complaints are filed with the Board, it's a different story. It triggers the Board's obligation to require a response, and it triggers the dental staff's requirement to respond.

That government-forced creation of a response document becomes the issue. Under current law, if the Board concludes that no discipline is warranted, the response is not released. The revised law would mandate that the Board release that response—which means the recipient can publicly share it and potentially use that Board-mandated response to increase harm.

The Board's concern is that forcing it to play that role seems likely to increase distrust and frustration with the government and the Board, and it would seem to make dental staff more reluctant to participate in the complaint investigations.

#### D. Transparency and an Already-Effective Complaint Process

To the extent this language is seen as a way to increase transparency or the effectiveness of complaint processing, the Board agrees that transparency in government is beneficial. It shares, however, that its existing open records laws already provide for a great deal of transparency.

- a. The dental records are the property of the patient, and as such, patients can always obtain their full dental records.
- b. The Board is allowed to protect patient medical information and records, and does not release them to third parties.
- c. Complaint files become public once the Board decides discipline is warranted.
- d. The laws promote full participation in investigations by all parties to a complaint.
- e. The laws allow the Board to gather complete information in its investigations.
- f. The public is protected because these laws help ensure wrongful conduct is disciplined.
- g. The laws allow the Board to do its regulatory work without adding harm to the patient or dental staff.



#### **IV. Conclusion**

In conclusion, the existing laws and safeguards related to the Board's complaint process have worked exceptionally well for decades, and have not been a concern. Changing them could undo those safeguards and the law's effectiveness. While the Board will readily and fully implement these changes if they are adopted, it seeks to make the Committee aware of the potential harm they could have and the lack of discernible benefits they might provide.

#### **Prepared and Presented by:**

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HB 1512 initially included four changes that worked together toward having the Board or a Court issue monetary awards against dental assistants, hygienists, and dentists. By leaving the change shown at Line 14 in place—which requires the Board to release the response for dismissed complaints—this remains a concern.

The legislature should not put the Board/government in the position of forcing the creation of a response and requiring that the response always be released to the opposing side of a lawsuit. That would circumvent the litigation process and all of the due process rights and safeguards within it. Instead of forcing the licensing Board to play a part in a litigation tactic, the complainant should instead be required to use the litigation process (and not the licensing board) to generate evidence to support their potential lawsuits.

Leaving this language in place means that any time an assistant, hygienist, and dentist is presented with a Board complaint, they will probably need to hire lawyers to assist them in drafting their response, costing then a considerable amount.

Some arguments are made that because the laws of some of the other licensed professions require that an entire complaint file and its documents always be public that the dental complaints should be, too. But that idea loses sight of the fact that medical/dental disputes are so different in many ways from complaints filed in other professions. First, the vast majority of a dental complaint involves confidential medical information—so the subject matter (sensitive patient information and records) of these complaints should not be fully public. Additionally, lawsuits sometimes arise from board complaints. Keep in mind that the dollar value of dental care and dental lawsuits are usually monetarily far higher than complaints that might be filed in some of these other professions. So circumventing the litigation process for dental complaint evidence gathering would have far reaching and impactful concerns for dentists, hygienists, assistants, on their malpractice insurers and coverage, and eventually on the cost of patient care.

# 2025 SENATE STANDING COMMITTEE MINUTES

## Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1512  
3/27/2025

A BILL for an Act to amend and reenact section 43-28-18.2 of the North Dakota Century Code, relating to an individual's ability to file a complaint.

11:02 a.m. Chairman Wobbema called the meeting to order.

Members Present: Chairman Wobbema, Vice-Chairman Axtman, Senator Boschee, Senator Larson, Senator Powers.

### Discussion Topics:

- Alignment with Board of Medicine Responses
- Civil Courts System

11:05 a.m. Senator Powers moved Do Not Pass.

11:06 a.m. Axtman second the motion.

Senators	Vote
Senator Mike Wobbema	Y
Senator Michelle Axtman	Y
Senator Josh Boschee	Y
Senator Diane Larson	Y
Senator Michelle Powers	Y

Motion passed 5-0-0

Senator Wobbema will carry the bill.

11:07 a.m. Chairman Wobbema closed the hearing.

*Andrew Ficek, Committee Clerk*

**REPORT OF STANDING COMMITTEE  
ENGROSSED HB 1512 ([25.1178.03000](#))**

**Workforce Development Committee (Sen. Wobbema, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1512 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.