

2023 HOUSE HUMAN SERVICES

HB 1221

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1221
1/16/2023

Relating to professional transparency for health care practitioners.

Chairman Weisz called the meeting to order at 11:13 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Rep. Prichard not present.

Discussion Topics:

- Consumer protection
- Transparency in practitioners' qualifications
- Licensure board
- False advertising and misleading information

Rep. Heinert introduced HB 1221, speaking in favor of bill.

Courtney Koebele, Executive Director of the North Dakota Medical Association, supportive testimony (#13449).

Joan Connell, North Dakota citizen and pediatrician, supportive testimony (#13517).

Additional written testimony:

Stacey Pfenning, Executive Director of the North Dakota Board of Nursing, neutral testimony (#13357).

Ana Tobiasz, Maternal Fetal Medicine physician from Bismarck, North Dakota, supportive testimony (#13369).

Jane Winston, North Dakota citizen and physician, supportive testimony (#13387).

Adam Hohman, Legislative Liaison for the North Dakota Nurse Practitioner Association, opposing testimony (#13407).

Chairman Weisz adjourned the meeting at 11:24 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1221
1/31/2023

Relating to professional transparency for health care practitioners.

Chairman Weisz called the meeting to order at 3:27 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Brandon Prichard, Todd Porter, Karen M. Rep. Rohr, and Gretchen Dobervich present. Rep. Jayme Davis not present.

Discussion Topics:

- Committee work
- Amendments
- Demand from health care patients for transparent information
- Names and titles of practitioners

Chairman Weisz: Discussion on HB 1221 and the proposed amendments #27413

Rep. McLeod moved to amend HB 1221 (#23.0587.01001).

Seconded by Rep. Rohr.

Motion carries by voice vote.

Vice Chairman Ruby moved to further amend HB 1221 page 2 line 9 by removing the word "Regionally".

Seconded by Rep. Dobervich.

Motion carries by voice vote.

Rep. McLeod moved a do pass as amended on HB 1221.

Seconded by Vice Chairman Ruby.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	N
Representative Matthew Ruby	Y
Representative Karen A. Anderson	N
Representative Mike Beltz	Y
Representative Jayme Davis	AB

Representative Gretchen Dobervich	Y
Representative Clayton Fegley	N
Representative Kathy Frelich	Y
Representative Dawson Holle	N
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	N
Representative Karen M. Rohr	N

Motion Carries, 8-5-1 Representative McLeod will carry the bill.

Chairman Weisz adjourned the meeting at 3:40 PM.

Phillip Jacobs, Committee Clerk

AK
1-31-23
(1-1)

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1221

Page 2, line 5, remove "C.N.A."

Page 2, line 7, after the first underscored comma insert "or"

Page 2, line 7, remove ", or certified nurse assistant"

Page 2, line 9, replace "a regionally" with "an"

Page 3, line 4, replace "this chapter" with "the name tag requirement"

Page 3, line 17, remove "Knowingly aiding, assisting, procuring, employing, or advising an unlicensed person to"

Page 3, remove lines 18 through 23

Page 3, line 24, remove "4."

Page 3, line 27, replace "5." with "3."

Page 3, line 28, replace "6." with "4."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1221: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1221 was placed on the Sixth order on the calendar.

Page 2, line 5, remove "'C.N.A.',"

Page 2, line 7, after the first underscored comma insert "or"

Page 2, line 7, remove ". or certified nurse assistant"

Page 2, line 9, replace "a regionally" with "an"

Page 3, line 4, replace "this chapter" with "the name tag requirement"

Page 3, line 17, remove "Knowingly aiding, assisting, procuring, employing, or advising an unlicensed person to"

Page 3, remove lines 18 through 23

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Page 3, line 27, replace "5." with "3."

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Renumber accordingly

2023 SENATE WORKFORCE DEVELOPMENT

HB 1221

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1221
3/9/2023

Relating to professional transparency for health care practitioners.

9:36 AM **Chairman Wobbema** called the hearing to order. **Senators Wobbema, Axtman, Elkin, Larson, Sickler** were present. Senator Piepkorn was absent.

Discussion Topics:

- Medical advertisement
- Requirement advertisement
- Training levels
- Credentials
- Violations
- Marketing license

9:37 AM **Representative Pat Heinert District 32**, introduced HB 1221, testified in favor, and proposed an amendment. #23325

9:39AM **Courtney Koebele, Executive Director North Dakota Medical Association**, testified in favor. # 23168

9:42 AM **Joan Connell, Pediatrician, Board Member North Dakota Medical Association**, testified in favor. #23179

9:47 AM **Bill Kalanek, Lobbyist North Dakota Chiropractic Association**, testified in favor. #23323

9:48 AM **Allison Hicks, Assistant Attorney General, Office of the Attorney General**, submitted testimony on behalf of **Lisa Blanchard, Executive Director for the North Dakota State Board of Chiropractic Examiners**, testified neutrally. #23117

Senator Wobbema calls for discussion.

Senator Larson moved to adopt amendment. LC230587002001 #23325, #23323

Senator Axtman seconded the motion.

Roll call vote.

Senators	Vote
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	Y
Senator Diane Larson	Y
Senator Merrill Piepkorn	AB
Senator Jonathan Sickler	Y

The motion passed 5-0-1.

Additional written testimony:

Jane Winston, Member, North Dakota Medical Association, in favor #22005

Marylyn Olson, in opposition #22621

Brian Balstad, Lobbyist, North Dakota Psychological Association, neutral #23306

9:53 AM Chairman **Wobbema** closed the hearing.

Patricia Lahr, Committee Clerk

DR

121

3-9-2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1221

Page 2, line 13, after the word "chiropractor" insert ", chiropractic physician."

Page 2, line 23, replace "PhD" with "Ph.D.", "Psy.D.", "Ed.D."

Renumber accordingly

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1221
3/9/2023

Relating to professional transparency for health care practitioners.

11:13 AM **Chairman Wobbema** called the meeting to order. **Senators Wobbema, Axtman, Elkin, Larson, Sickler, Piepkorn** were present.

Discussion Topics:

- Medical advertisement
- Advertisement requirements
- Committee action

Senator Wobbema calls for discussion.

11:13 AM Lindsey Pouliot distributed the combined amendment adopted #23376

Senator Axtman moved DO PASS AS AMENDED.

Senator D. Larson seconded the motion.

Roll call vote.

Senators	Vote
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	Y
Senator Diane Larson	Y
Senator Merrill Piepkorn	Y
Senator Jonathan Sickler	Y

Motion passed 6-0-0.

Senator Wobbema will carry HB 1221

11:16 AM **Chairman Wobbema** closed the meeting.

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1221, as engrossed: Workforce Development Committee (Sen. Wobbema, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1221 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 2, line 13, after the word "chiropractor" insert ", chiropractic physician."

Page 2, line 23, replace "PhD" with "Ph.D.", "Psy.D.", "Ed.D."

Renumber accordingly

TESTIMONY

HB 1221

**House Human Services Committee
ND Board of Nursing
HB 1221**

Chairman Weisz and members of the Committee. I am Dr. Stacey Pfenning APRN FNP, Executive Director of the North Dakota Board of Nursing (NDBON).

As representative for the Board, I am here to share language considerations for **HB 1221** a bill to create and enact a new chapter to title 43 of the NDCC, relating to professional transparency for health care practitioners.

Section 1. Definitions. Subsection 3.c. (page 2, line 5) includes the initials C.N.A. and line 7 includes the words “certified nurse assistant”. The certified nurse aide is a support role and not considered to be a “practitioner of nursing”. Oversight of C.N.A’s is under the jurisdiction of the ND Health and Human Services, Refer to NDCC 24-44 Nurse Aide Registry for definitions and rules. In addition, the Nurse Practices Act titles and abbreviations for nurses include Licensed Practical Nurse (L.P.N.), Registered Nurse (R.N.), and Advanced Practice Registered Nurse (A.P.R.N).

Line 9 describes a “regionally” accredited institution. Nurse licensure requires graduation from an accredited institution and advanced registered nurse licensure requires completion of an accredited graduate level program. We propose removing the word regionally.

Requirements. (Line 25, page 2) Subsection 3.a.-d. (page 3, lines 4-14) list those health care practitioners and scenarios that are not subject to this chapter or exempt from the requirements listed in this bill.

Violations and Enforcement. (Line 15, page 3) Subsection 1.-3. (Lines 16-23) explain violations that may be grounds for disciplinary action. While line 16 aligns with the rest of this bill, 17 through 23 speak to practicing out of scope and assisting with or delegating things outside of scope of practice. The Board is concerned that all individuals and scenarios listed in lines 4 through 14 (specifically lines 9 through 14) are considered exempt from the violations listed in lines 16 through 23. According to the **NPA 43-12.1**, and **NDAC 54**, the performance or delegation of any nursing task, whether by an APRN, RN, or LPN that is outside of scope of practice for the level of licensure may be considered grounds for disciplinary action. The Board would request that violations listed in lines 17 through 23 be removed from the bill as they already exist in the Nurse Practices Act, or the exemptions listed in lines 4 through 14 be clarified to address the name badge requirements specifically.

Thank you for your time and attention, and the opportunity to share the NDBONs recommendations about HB 1221. I am open to any questions the Committee members may have.

Dr. Stacey Pfenning DNP APRN FNP FAANP
701-527-6761
spfenning@ndbon.org

(Committee members: Robin Weisz, Chairman, Karen Rohr, Vice Chairman, Mike Beltz, Chuck Damschen, Bill Devlin, Gretchen Dobervich, Clayton Fegley, Dwight Kiefert, Todd Porter, Matthew Ruby, Mary Schneider, Kathy Skroch, Bill Tveit, and Greg Westlind)

House Human Services Committee
HB 1221
January 16, 2023

Dear Chairman Weisz and members of the committee. My name is Dr Ana Tobiasz, MD and I am a Maternal Fetal Medicine physician in Bismarck. Thank you for the opportunity to testify in favor of HB 1221. I am asking the committee to give this bill a Do Pass recommendation.

All members of the health care team are important and have their role, however it is a frequent occurrence where patients will be misled as to the type of practitioner they had seen during a visit. This happens to my patients frequently when I am referring them for consultation with other specialities or when they refer to their primary care provider as their “doctor” only to find out that they had actually seen a nurse practitioner, naturopath, or other non-physician provider. The reason this happens is because the provider is not being transparent as to their qualifications. The training that physicians complete as compared to non-physician providers such as physician assistants, nurse practitioners, or naturopaths is vastly different. Patients should be allowed to see the type of practitioner they prefer.

While there is no question that non physician providers play a vital role in the health care team, it is misleading to patients to represent themselves as “doctors” without clarifying which type of doctor they are. If the qualifications of the providers are not visible and transparent, we are not allowing patients to receive the care they deserve, prefer, and are ultimately paying for.

Patients and families should be aware of the qualifications of the practitioner giving them their care. For this reason, I ask for a Do Pass recommendations for HB 1221.

Dr Ana Tobiasz, MD
Maternal Fetal Medicine Physician

1/15/23

I testify in support of HB1221 regarding health care transparency. This legislation requires all North Dakota healthcare providers to clearly state and post their education and licensure when communicating and interacting with their patients.

I am a Wahpeton native and family physician and geriatrician. I graduated from the University of North Dakota School of Medicine and Health Sciences and completed some of my post graduate training in the state. My career and family life have taken me to several other states but I returned to my home state to practice and retired from Sanford Health.

Patients have a right to know who is providing their treatment. As a retired physician who is now viewing healthcare from the patient side, one particular aspect of the HB 1221 really resonated with me. That's the clause requiring health care workers to wear a visible identification badge which includes a recent photo and their license type. During most of my medical encounters as a patient, health care workers have their badges flipped over or hanging on a lanyard where they can't be read. Even the routine procedure of obtaining a patient's medical history and medication list requires training, experience, and a pledge of confidentiality. Being able to easily verify that the worker has an appropriate license is very reassuring to me that my care will be provided in a professional manner.

On a larger scale this legislation requires that marketing materials regarding treatment of health conditions include the health care providers' education and licensure information which improves patient safety.

Thank you for your consideration,

Jane Winston MD
3708 Asbyn Lane N.
623-363-1067



North Dakota Nurse Practitioner Association
Legislative Liaison Team
ndnpalegislative@gmail.com

Written Letter to

68th NORTH DAKOTA LEGISLATIVE ASSEMBLY

HB 1221

Chairman Louser and Committee,

I am Adam Hohman, Legislative Liaison for the North Dakota Nurse Practitioner Association (NDNPA). I am writing to ask you to vote **do not pass** on HB 1221.

The NDNPA understands the importance of transparency and advocates for full honest disclosure with patients in regard to communications and statements for health care services in regard to a health care practitioner's type of license. However, the passing of HB 1221 would likely not significantly alter outcomes for patient care but rather it would create unnecessary administrative hurdles for an already overburdened healthcare workforce.

While there has been a highly visible case recently in California which involved a healthcare practitioner's misrepresentation of credentials, cases as such are not the norm within healthcare. Cases of license misrepresentation are often more reflective of an individual's personal actions rather than the healthcare profession lacking rules and regulations surrounding credentials and licensure. Overall, most healthcare facilities already require health care practitioners to wear name badges and/or post the credentials of their respective practitioners within advertisements or communications to their patients and the public. Meaningful legislation that would impact patient care will not come from legislation such as that proposed in HB 1221 but rather from legislation addressing the more significant healthcare issues in North Dakota.

Currently, there are more significant healthcare concerns in North Dakota that need to be addressed. Prior to the COVID-19 pandemic, healthcare professionals were already dealing with the burden of burnout and workforce shortages, both of which have now become acutely exacerbated due to the pandemic. Further complicating the healthcare landscape for patients in North Dakota is the availability of healthcare providers particularly in rural areas; access to care

and health services, technology, and access to advanced treatment options. Additionally, patients continue to be burdened with the affordability of prescription drugs and their ability to pay for healthcare services. During the pandemic our statewide problem of unmet mental and behavioral health needs has also become acutely exacerbated.

Not only are patients suffering but so are health care facilities. Due to inadequate Medicare and Medicaid reimbursement models, and a lack of staffing and resources many North Dakota hospitals are experiencing difficulty with providing services and remaining financially viable. Of the 53 counties in North Dakota, 19 counties do not have a primary or acute care hospital limiting people's ability to seek needed healthcare readily.

Rather than pass HB 1221 which would create unnecessary administrative hurdles for healthcare practitioners and facilities, we would ask that you instead collaborate with healthcare professionals across the state to produce legislation that addresses more significant healthcare issues that have everyday impact on many North Dakotans.

Thank you for your time.

Adam Hohman, DNP, FNP-BC

ndnpalegislativ@gmail.com



House Human Services Committee

House Bill 1221

January 16, 2023

Chairman Weisz and Committee Members, I'm Courtney Koebele and I am the executive director of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students. The North Dakota Medical Association is proud to support House Bill 1221.

Truth in Advertising seeks to address the need for all health providers to clearly state their level of training, education, and licensing in marketing and other communications to the public. This consumer safety legislation will assist patients in making informed decisions when choosing a healthcare professional.

With the vast information provided by the internet along with a large volume of health care providers, it oftentimes becomes difficult for the patient to know the truth from the misleading. Uninformed choice can lead to unintended consequences and potentially dangerous health outcomes. Requiring health professions to display their credentials and their capabilities would allow North Dakotans to make informed choices about their health care including full disclosure in all advertising and marketing materials.

As a matter of consumer protection, we believe that this legislation will provide regulatory boards with an additional means of protecting the public.

The bill has three parts. The first part of the bill deals with definitions of advertisement, deceptive or misleading, and healthcare practitioner. The next

section of the bill deals with the requirements. Those include advertisements and postings regarding the licensure of the practitioner. The third and final section deals with violations and enforcement. Please note that the only penalty under this act is that a practitioner may be disciplined by their licensure board. There are no other penalties associated with this act.

Significant national survey data shows that patients are confused about the education, training, qualifications of their healthcare providers. By passing this law, North Dakota is making a statement for consumers of healthcare.

HB 1221 will help reduce this confusion by ensuring that any advertisement for health care services that names a health care practitioner will also identify the type of license held by the health care practitioner. HB 1221 also requires that the information must be based on their level of legal licensure and be free of deceptive or misleading information. Considering the avalanche of information available to patients in today's healthcare system, the provision of truthful information is simply a matter of common sense. Many states have passed similar laws, including Georgia, Texas, Utah, West Virginia, Maryland, Maine, Nevada, Mississippi, Connecticut, Tennessee, Arizona, California, Illinois and Oklahoma.

This bill does not increase or limit anyone's scope of practice. Instead, this bill increases the transparency of health care professionals' qualifications for patients, so that patients can clearly see and make informed decisions about who provides their care.

Thank you for the opportunity to present NDMA's position on this issue. I'd be happy to answer any questions.

Testimony House Bill 1221- IN SUPPORT
Human Services Committee
Sixty-eighth Legislative Assembly of North Dakota
January 16, 2023

Greetings Chairman Weisz, Vice Chair Ruby, and House Human Services Committee,

My name is Joan Connell. I am a local pediatrician in support of HB 1221. This bill allows for patients to easily see their healthcare providers' credentials by having providers clearly display their credentials on their person and/or at their offices as well as prohibiting false advertising of credentials.

Historically, a visit with Dr. So-and-So meant a visit with your MD or DO trained physician. As I am sure you are aware, there has been a significant increase in the number and type of advanced practice providers with doctoral degrees, which is great as we continue to strive to meet the health care needs of patients in our state. You are also likely aware of the growing diversity of healthcare providers including pharmacists, naturopaths, physical therapists, chiropractors, physician assistants, nurse practitioners, and physicians. With the exception of physician assistants, many of these other providers have graduated from doctoral level programs, each requiring a unique set of coursework and experiential training. Some of these practitioners are covered by health insurance. Others are not. Some have prescriptive rights. Some do not. Some are promoted to put the "health" in health care while others are promoted to put the "care" in health care.

1/15/23

I testify in support of HB1221 regarding health care transparency. This legislation requires all North Dakota healthcare providers to clearly state and post their education and licensure when communicating and interacting with their patients.

I am a Wahpeton native and family physician and geriatrician. I graduated from the University of North Dakota School of Medicine and Health Sciences and completed some of my post graduate training in the state. My career and family life have taken me to several other states but I returned to my home state to practice and retired from Sanford Health.

Patients have a right to know who is providing their treatment. As a retired physician who is now viewing healthcare from the patient side, one particular aspect of the HB 1221 really resonated with me. That's the clause requiring health care workers to wear a visible identification badge which includes a recent photo and their license type. During most of my medical encounters as a patient, health care workers have their badges flipped over or hanging on a lanyard where they can't be read. Even the routine procedure of obtaining a patient's medical history and medication list requires training, experience, and a pledge of confidentiality. Being able to easily verify that the worker has an appropriate license is very reassuring to me that my care will be provided in a professional manner.

On a larger scale this legislation requires that marketing materials regarding treatment of health conditions include the health care providers' education and licensure information which improves patient safety.

Thank you for your consideration,

Jane Winston MD
3708 Asbyn Lane N.
623-363-1067

Re: Chairman Wobbema and members of the Workforce Development Committee

I am writing as a voice for Do Not Pass for HB1221, Professional Transparency on Healthcare Workers. My perspective comes as a member of a medical family ranging from nurses to physicians across four generations and as a thankfully infrequent patient myself. There are two major sections of this bill; one of which I have no concern with and the other, major concerns. The first section of the bill pertains, from my understanding, to truth in advertising medical services and who is qualified to perform them which all seems like pretty standard stuff to me. I don't have any strong opinions regarding this section.

What I do take issue with is the section regarding micromanaging name tags and personal introductions between practitioner and patient. I try to keep the negativity down when I say these requirements read like they were written or suggested by someone who has no experience in the dynamic nature of healthcare. Allow me to point out the vagueness and impracticality I'm seeing in the proposals.

Requirement #2, "a practitioner [...] shall post conspicuously and communicate affirmatively the practitioner's specific licensure". What does this mean? Will every hospital unit be required to have a wall dedicated to headshots of every nurse and physician working? What does "conspicuous" mean in relation to an entire hospital campus? What happens when a nurse floats to another unit, which happens daily and frequently more than once in a day? Is she required to carry a poster of her face and credentials with her at all times to hang up on the new unit before being allowed to work? This is an honest question to the Committee because since this is a separate verbiage from the nametag requirement I interpret this "posting" as something separate from an individual's nametag.

Further on in Requirement #2, that a "practitioner's name" be included on nametags. Does that mean full name, first and last? It does not say in this bill. I know currently in the facilities I'm familiar with last names are offered only for Providers ie Doctors and the like, as has been tradition. Requiring nurses and other floor workers to display and convey full names at all times to everyone in visual range and not just their

patient in the patient's chart is a big change and a very large removal of the little privacy these healthcare workers receive in the modern era.

Moving down, the nametag exemption section is so uncompromising and sparse while attempting to cover virtually the entire medical field and the tens of thousands of scenarios that occur that I promise you every single defined practitioner will violate it whether unintentionally or by nature of a specific task. For example, when a practitioner is entering a patient's room who is under isolation for a communicable disease they will don disposable isolation gowns that cover their entire bodies. You would not wear a nametag on the outside of this gown or else it would be contaminated. Is this covered under "practitioner safety"? How about when a surgeon dons sterile clothing in the operating room and cannot wear a nametag? Not wearing a nametag would be for the patient's safety maintaining a sterile field, not the surgeon's safety. This may seem pedantic but the bill is so vague yet harsh and demanding and that's my point. The way I read this bill you would be guilty of unprofessional conduct for following these basic and standard behaviors.

Finally I would like to point out to the Committee that every professional licensing board I am aware of in this state already has procedures and interpretations in place for "Professional Misconduct". That is part of the point of having these Boards; they certainly are more familiar with accepted behavior and healthcare having worked within it to some sort of extent. In refutation of an argument I read in support of this bill it is not my personal opinion but easily referenced fact that misrepresentation of your credentials is already a punishable behavior by the Boards of Nursing and Medicine. A physician made claims that mid-level providers she works with intentionally withhold credentials from patients, perhaps, I infer, in a glory-seeking pursuit to get called 'Doctor' though they are not. I stress to the Committee that this is already a crime and a new law is not necessary to cover it. If this physician truly believes patients are being intentionally misled by mid-levels she is working with then it is her duty to report them to their respective Boards.

This "stop and identify" section of the bill is wading into nuanced territory with a very "if all you have is a hammer every problem becomes a nail" attitude. These nuances are, in my opinion, the entire reason we have professional boards to interpret whether behavior from a practitioner is malicious and unprofessional or baseless

accusations. This bill seeks to tie their hands and treat a forgotten nametag or a hasty first introduction during morning rounds with the same seriousness as forging credentials or performing surgery while intoxicated. It is not well thought out at all. I hope this testimony has given a new perspective on this proposal and it is either heavily modified or withdrawn from consideration.

Thank you,

Marylyn Olson



NORTH DAKOTA BOARD OF CHIROPRACTIC EXAMINERS

P.O. Box 185 · Grafton, ND 58237

Phone: (701) 213-0476 · Fax: (855) 450-2153 · Email: contact@ndsbce.org · Web: www.ndsbce.org

SENATE WORKFORCE DEVELOPMENT COMMITTEE
THURSDAY, MARCH 9, 2023

TESTIMONY OF LISA BLANCHARD
NORTH DAKOTA STATE BOARD OF CHIROPRACTIC EXAMINERS
HOUSE BILL NO. 1221

Chairman Wobbema, members of the Committee. I am Lisa Blanchard, Executive Director for the North Dakota State Board of Chiropractic Examiners. As representative for the Board, I am submitting an amendment consideration for HB 1221, a bill relating to professional transparency for health care practitioners.

The Board submits the attached proposed amendment for the committee's consideration.

The proposed amendment updates the titles used by chiropractors in subsection e. on page 2 of the bill. The titles listed in HB 1221 do not match those allowable in N.D.C.C. 43-06-11. Below is the language for 43-06-11 [emphasis added]:

*43-06-11. License - When issued - Who issues - Title used by licensed chiropractor. A license to practice chiropractic in this state must be issued by the board to an applicant who has submitted proof of the required qualifications and passed the required examination. A license to practice chiropractic may not be granted except upon the affirmative vote of at least a quorum of the board. **A licensed chiropractor may use the title doctor of chiropractic, chiropractor, chiropractic physician, or D.C.***

The title currently not included in HB 1221 is "chiropractic physician." If the proposed amendment is adopted, subsection e. would read: "Practitioners of chiropractic, signified by the letters "D.C." or the words chiropractor, chiropractic physician, or doctor of chiropractic."

Thank you for your time and the opportunity to share the proposed consideration for HB 1221 to resolve the conflicting language between HB 1221 and 43-06-11.

Lisa Blanchard, Executive Director
North Dakota State Board of Chiropractic Examiners
(701) 213-0476; contact@ndsbce.org

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1221

Page 2, line 13, after the word "chiropractor" insert ", chiropractic physician,"

Renumber accordingly



Senate Workforce Development Committee

House Bill 1221

March 9, 2023

Chairman Wobbema and Committee Members, I'm Courtney Koebele and I am the executive director of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students. The North Dakota Medical Association is proud to support House Bill 1221.

Truth in Advertising seeks to address the need for all health providers to clearly state their level of training, education, and licensing in marketing and other communications to the public. This consumer safety legislation will assist patients in making informed decisions when choosing a healthcare professional.

With the vast information provided by the internet along with a large volume of health care providers, it oftentimes becomes difficult for the patient to know the truth from the misleading. Uninformed choice can lead to unintended consequences and potentially dangerous health outcomes. Requiring health professions to display their credentials and their capabilities would allow North Dakotans to make informed choices about their health care including full disclosure in all advertising and marketing materials.

As a matter of consumer protection, we believe that this legislation will provide regulatory boards with an additional means of protecting the public.

The bill has three parts. The first part of the bill deals with definitions of advertisement, deceptive or misleading, and healthcare practitioner. The next

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Significant national survey data shows that patients are confused about the education, training, qualifications of their healthcare providers. By passing this law, North Dakota is making a statement for consumers of healthcare.

HB 1221 will help reduce this confusion by ensuring that any advertisement for health care services that names a health care practitioner will also identify the type of license held by the health care practitioner. HB 1221 also requires that the information must be based on their level of legal licensure and be free of deceptive or misleading information. Considering the avalanche of information available to patients in today's healthcare system, the provision of truthful information is simply a matter of common sense. Many states have passed similar laws, including Georgia, Texas, Utah, West Virginia, Maryland, Maine, Nevada, Mississippi, Connecticut, Tennessee, Arizona, California, Illinois and Oklahoma.

This bill does not increase or limit anyone's scope of practice. Instead, this bill increases the transparency of health care professionals' qualifications for patients, so that patients can clearly see and make informed decisions about who provides their care.

Thank you for the opportunity to present NDMA's position on this issue. I'd be happy to answer any questions.

Testimony House Bill 1221- IN SUPPORT
Senate Workforce Development
Sixty-eighth Legislative Assembly of North Dakota
March 9, 2023

Greetings Chairman Wobbema, Vice Chair Axtman, and Senate Workforce Development Committee.

My name is Joan Connell. I am a local pediatrician in support of HB 1221. This bill allows for patients to easily see their healthcare providers' credentials by having providers clearly display their credentials on their person and/or at their offices as well as prohibiting false advertising of credentials.

Historically, a visit with Dr. So-and-So meant a visit with your MD or DO trained physician. As I am sure you are aware, there has been a significant increase in the number and type of advanced practice providers with doctoral degrees, which is great as we continue to strive to meet the health care needs of patients in our state. You are also likely aware of the growing diversity of healthcare providers including pharmacists, naturopaths, physical therapists, chiropractors, physician assistants, nurse practitioners, and physicians. With the exception of physician assistants, many of these other providers have graduated from doctoral level programs, each requiring a unique set of coursework and experiential training. Some of these practitioners are covered by health insurance. Others are not. Some have prescriptive rights. Some do not. Some are promoted to put the "health" in health care while others are promoted to put the "care" in health care.

This increase in the variety of providers ultimately provides patients with the opportunity to choose the provider that is right for them. However, this opportunity is lost when the patient is unable to easily discern the practitioner's credentials. For those of you who listen to local radio, I would like to use the recent ads from Dakota Natural Health Center, where Terry the pharmacist promotes his team of nurse practitioners and naturopathic doctors to provide a "natural approach to comprehensive health" as a triple gold star for truth in advertising. The patient, or consumer of health care, is made explicitly aware of the credentials of the health care providers at this clinic. This should be the expectation whether the patient is seeking outpatient care for an acute or chronic problem or in the hospital where the patient is encountered by a myriad of providers throughout the day.

Therefore, I am asking for you to vote yes for HB 1221, in support of transparency of health care providers credentials to make it more possible for our patients to be able to choose the provider who is right for them.

Thank you. I'd be happy to answer any questions.

Session: 68th Legislative Assembly, Regular Session (2023)
Bill: HB 1221
Committee: Senate Workforce Development Committee
Hearing: Thursday, March 9th, 2023 at 9:30 a.m.
Testimony: Written and Oral Testimony (remote)
Witness: Brian Balstad, Lobbyist for North Dakota Psychological Association

Chairman Wobbema and members of the Workforce Development Committee:

My name is Brian Balstad. I am the lobbyist for the North Dakota Psychological Association (NDPA), the professional association for psychologists in the State of North Dakota. I am providing testimony on behalf of NDPA to propose an amendment to HB 1221 and to otherwise provide neutral testimony in regard to the same.

Upon reviewing HB 1221, it was noted two (2) doctoral degrees were inadvertently omitted from the definition of “health care practitioner” in regard to psychologists. Specifically, “Psy.D.” and “Ed.D.” were inadvertently omitted. It was also noted punctuation was inadvertently omitted from the abbreviation “PhD”. Therefore, NDPA respectfully proposes amending the subdivision of HB 1221 regarding psychologists, namely the “Definitions” section, subsection three, subdivision k (HB 1221 version 23.0587.02000, page 2, line 23), as follows: “Psychologists, signified by the letters “Ph.D.”, “Psy.D.”, “Ed.D.”, or the word psychologist.” NDPA is otherwise neutral in regard to HB 1221.

Thank you for your time and consideration. I stand for questions.

Suggested amendment, for HB 1221, Section 1. 3 e, to include the term “chiropractic physician.”

e. Practitioners of chiropractic, signified by the letters “D.C.” or the words chiropractor, doctor of chiropractic, or chiropractic physician.

The purpose of the suggested amendment is to maintain consistency with three additional legislative definitions, one of which is within the current ND Century Code (43-06-11), another is within proposed legislation (SB 2115), and the third is in Federal Statute (Social Security Act – Sec. 1861(r)).

As stated in the **ND Century Code, 43-06-11.**, “A licensed chiropractor may use the title doctor of chiropractic, chiropractor, chiropractic physician, or D.C.” Additionally, during this legislative session, **SB 2115** has passed the Senate and awaits consideration in the House. SB 2115, in part, appears to seek additional clarity for the public regarding the term physician. Section 2 of SB 2115 applies to **43-17-02. Persons exempt from the provisions of chapter.** Specifically, item 6 states, “*Doctors of chiropractic duly licensed to practice in this state pursuant to the statutes regulating such profession.*” Thus, the term “chiropractic physician” is included within ND Century Code in both 43-06-11 and 43-14-02. Omitting “chiropractic physician” from HB 1221 could thus create additional confusion if someone reviewing this language is not readily familiar with the other sections where it is permitted. A false impression that “chiropractic physician” is not permitted could lead to unnecessary complaints to the licensing board.

Lastly, the **Social Security Act, in Section 1861(r)**, defines the term physician as “*doctor of medicine, doctor of osteopathy (including osteopathic practitioner), doctor of dental surgery or dental medicine (within limitations in C.), doctor of podiatric medicine (within limitations in D.), doctor of optometry (within limitations of F.), or a chiropractor (within limitations of G.), legally authorized to practice by a State in which the individual performs this function.*”

The suggested amendment is consistent with current language, not only in ND Century Code, but also in Federal statute. Consistent language and definitions creates clarity and reduces confusion, which we believe is in keeping with the intent of HB 1221 for the purpose of maintaining clarity for the public when seeking health care in ND.

23.0587.02001
Title.

Prepared by the Legislative Council staff for
Representative Heinert
March 7, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1221

Page 2, line 23, replace "PhD" with "Ph.D.", "Psy.D.", "Ed.D."

Renumber accordingly

HB 1221

SWD

Page 2, line 13, after the word “chiropractor” insert “, chiropractic physician,”

Page 2, line 23, replace “PhD” with “Ph.D.”, “Psy.D.”, “Ed.D.”

Renumber accordingly

After these changes, lines 12-13 will read:

e. Practitioners of chiropractic, signified by the letters “D.C.” or the words chiropractor, chiropractic physician, or doctor of chiropractic.

After these changes, line 23 will read:

k. Psychologists, signified by the letters “Ph.D.”, “Psy.D.”, “Ed.D”, or the word psychologist.

23.0587.01001

#27390

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1221

Introduced by

Representatives Heinert, Bosch, Ista, Meier, Motschenbacher, M. Ruby, Schatz
Senators Axtman, Clemens

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century
2 Code, relating to professional transparency for health care practitioners.

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

4 **SECTION 1.** A new chapter to title 43 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 As used in this chapter:

- 8 1. "Advertisement" means a communication or statement, whether printed, electronic, or
9 oral, which names the health care practitioner in relation to the practitioner's practice,
10 profession, or institution in which the practitioner is employed, volunteers, or otherwise
11 provides health care services. The term includes a communication or statement on a
12 business card, on letterhead, in a patient brochure, in electronic mail, on the internet,
13 in an audio or video format, and any other communication or statement used in the
14 course of business.
- 15 2. "Deceptive" or "misleading" includes an advertisement or affirmative communication or
16 representation that misstates, falsely describes, holds out, or falsely details the health
17 care practitioner's profession, skills, training, expertise, education, board certification,
18 or licensure.
- 19 3. "Health care practitioner" means the following health care licensure types:
20 a. Practitioners of allopathic medicine, signified by the letters "M.D." or the words
21 surgeon, medical doctor, or doctor of medicine, by an individual licensed to
22 practice medicine and surgery.

- 1 **b.** Practitioners of osteopathic medicine, signified by the letters "D.O." or the words
2 surgeon, osteopathic surgeon, osteopath, doctor of osteopathy, or doctor of
3 osteopathic medicine.
- 4 **c.** Practitioners of nursing, signified by the letters "D.N.P.", "N.P.", "R.N.", "L.P.N.",
5 "C.R.N.A.", "~~C.N.A.~~", or any other commonly used signifier to denote a doctorate
6 of nursing practice, advanced practice practitioner, registered nurse, licensed
7 practical nurse, or certified registered nurse anesthetist, ~~or certified nurse~~
8 assistant, respectively, as appropriate to signify the degree of licensure and
9 degree earned from a regionally accredited institution of higher education in the
10 appropriate field of learning.
- 11 **d.** Practitioners of podiatry, signified by the letters "D.P.M." or the words podiatrist,
12 doctor of podiatry, podiatric surgeon, or doctor of podiatric medicine.
- 13 **e.** Practitioners of chiropractic, signified by the letters "D.C." or the words
14 chiropractor or doctor of chiropractic.
- 15 **f.** Practitioners of naturopathy, signified by the letters "N.D." or the words
16 naturopathic doctor or doctor of naturopathy.
- 17 **g.** Physician assistants, signified by the letters "P.A." or the words physician
18 assistant.
- 19 **h.** Physical therapists, signified by the letters "P.T.", "D.P.T.", "M.P.T.", or the words
20 physical therapists.
- 21 **i.** Medical assistants, signified by the letters "M.A." or the words medical assistant.
- 22 **j.** Practitioners of audiology, signified by the letters "Au.D.", "Sc.D.", "Ph.D.", or the
23 words audiologist or doctor of audiology.
- 24 **k.** Psychologists, signified by the letters "PhD" or the word psychologist.

25 **Requirements.**

- 26 **1.** An advertisement for health care services which names a health care practitioner must
27 identify the type of license held pursuant to the definitions under this chapter. The
28 advertisement may not contain deceptive or misleading information.
- 29 **2.** A health care practitioner providing health care services in this state shall post
30 conspicuously and communicate affirmatively the practitioner's specific licensure as
31 defined under this chapter. A health care practitioner shall wear a photo identification

- 1 name tag during all patient encounters which must include a recent photograph of the
2 practitioner, the practitioner's name, and the type of license. The name tag must be of
3 sufficient size and be worn in a conspicuous manner so as to be visible and apparent.
4 3. A health care practitioner is not subject to ~~this chapter~~ the name tag requirement if:
5 a. The health care practitioner is working in a nonpatient care setting and does not
6 have any direct patient care interactions;
7 b. The wearing of identification would jeopardize the health care practitioner's
8 safety;
9 c. The health care practitioner is in an office in which the license type and names of
10 all health care practitioners working in the office are displayed on the office door
11 and each health care practitioner working in the office has the practitioner's
12 license posted prominently in the office and readily visible to a patient; or
13 d. The office is an office of a solo health care practitioner, or of a single type of
14 health care provider.

15 **Violations and enforcement.**

- 16 1. Failure to comply with this chapter constitutes a violation under this chapter.
17 2. ~~Knowingly aiding, assisting, procuring, employing, or advising an unlicensed person to~~
18 ~~practice or engage in acts contrary to a health care practitioner's degree of licensure~~
19 ~~constitutes a violation under this chapter.~~
20 ~~3. Delegating or contracting for the performance of health care services by a health care~~
21 ~~practitioner if the licensee delegating or contracting for performance knows, or has~~
22 ~~reason to know, the individual does not have the required authority pursuant to the~~
23 ~~individual's licensure constitutes a violation under this chapter.~~
24 ~~4. A health care practitioner who violates this chapter is deemed to have engaged in~~
25 unprofessional conduct, which may be grounds for disciplinary action under the
26 licensure provisions governing the respective health care practitioner.
27 ~~5.3.~~ A violation of this section does not create a private right of action by a patient.
28 ~~6.4.~~ Notwithstanding the imposition of any penalty, a professional licensing board or other
29 administrative agency with jurisdiction may seek an injunction or other legal means as
30 appropriate against a person violating this chapter.