

February 13, 2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2163

Page 1, line 1, after "reenact" insert "section 23-34-04,"

Page 1, line 2, replace the first "and" with a comma, remove the second "and", and after "43-17.1-02" insert ", subsection 1 of section 43-17.1-05, and subsection 3 of section 43-17.1-06"

Page 1, after line 6, insert:

"SECTION 1. AMENDMENT. Section 23-34-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-34-04. Peer review committee - Mandatory reports. A peer review committee shall report to ~~the commission on~~ an investigative panel of the board of medical competency examiners any information that indicates a probable violation of subsection 4, 5, 16, or 17 of section 43-17-31. A health care organization is guilty of a class B misdemeanor if its peer review committee fails to make any report required by this section."

Page 1, line 17, after "including" insert "reasonable"

Page 1, line 20, after the period insert "A physician may challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an administrative law judge. The administrative law judge may approve, deny, or modify any cost item, and the determination of the judge is final. The hearing must occur before the physician's license may be suspended for nonpayment."

Page 2, replace lines 1 through 4 with:

- "1. When, based on verified evidence, the board ~~has probable cause to believe that the suspension of a physician's license is required to reasonably protect the public from imminent or critical harm~~ determines by a clear and convincing standard that the evidence presented to the board indicates that the continued practice by the physician would create a significant risk of serious and ongoing harm to the public while a disciplinary proceeding is pending, and that immediate suspension of the physician's license is required to reasonably protect the public from that risk of harm, the board may order a temporary suspension ex parte. For purposes of this section, "verified evidence" means testimony taken under oath and based on personal knowledge. The board shall give prompt written notice of the suspension to the physician, which must include a copy of the order and complaint, the date set for a full hearing, and a specific description of the nature of the evidence, including a list of all known witnesses and a description of any documents relied upon by the board in ordering the temporary suspension which, upon request, must be made available to the physician."

Page 2, line 5, overstrike "for not more than sixty days,"

Page 2, line 6, overstrike "unless" and insert immediately thereafter "until a final order is issued after a full hearing or appeal under this section or until the suspension is" and remove "or extended by agreement of the parties"

Page 2, line 11, replace "fifty" with "thirty"

Page 2, line 12, remove "unless an extension of time has been agreed to by the parties to the action" and overstrike "Within"

Page 2, overstrike lines 13 and 14

Page 2, line 15, overstrike "notice of the date set for the full hearing" and insert immediately thereafter "The physician is entitled to a continuance of the thirty-day period upon request for a period determined by the hearing officer!"

Page 2, after line 28, insert:

"SECTION 6. AMENDMENT. Subsection 1 of section 43-17.1-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Any person may make or refer written complaints to the investigative panels with reference to the acts, activities, or qualifications of any physician, physician assistant, or fluoroscopy technologist licensed to practice in this state, or to request that an investigative panel review the qualifications of any physician, physician assistant, or fluoroscopy technologist to continue to practice in this state. Any person who, in good faith, makes a report to the investigative panels under this section is not subject to civil liability for making the report. For purposes of any civil proceeding, the good faith of any person who makes a report pursuant to this section is presumed. Upon receipt of any complaint or request, the investigative panel shall conduct the investigation as it deems necessary to ~~resolve the matter as it deems appropriate. The investigative panel shall determine whether a formal hearing should be held to~~ determine whether any physician, physician assistant, or fluoroscopy technologist has committed any of the grounds for disciplinary action provided for by law. Upon completion of its investigation, the investigative panel shall make a finding that the investigation discloses that:
 - a. There is insufficient evidence to warrant further action;
 - b. The conduct of the physician, physician assistant, or fluoroscopy technologist does not warrant further proceedings, but the investigative panel determines that possible errant conduct occurred that could lead to significant consequences if not corrected. In such a case, a confidential letter of concern may be sent to the physician, physician assistant, or fluoroscopy technologist; or
 - c. The conduct of the physician, physician assistant, or fluoroscopy technologist indicates that the physician, physician assistant, or fluoroscopy technologist may have committed any of the grounds for disciplinary action provided for by law and which warrants further proceedings.

SECTION 7. AMENDMENT. Subsection 3 of section 43-17.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. ~~Require~~ Upon probable cause, require any physician, physician assistant, or fluoroscopy technologist under investigation to submit to a physical, psychiatric, or competency examination, or chemical dependency evaluation."

Renumber accordingly