

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/83) 3M



ROLL NUMBER

DESCRIPTION

2162

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2162

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2162

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 16, 2001

Tape Number	Side A	Side B	Meter #
2		X	46.8 to end
3	X		0 to 17
Jan 17/ 01 3	X		0.8 to 3
April 03/01 1	X		35.1 to 40.3
Committee Clerk Signature <i>Donna C. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2162 relating to the practice of respiratory care; and to provide a penalty.

GLENN THOM, President, ND Society of Respiratory care. Written testimony attached. The purpose of this bill is to provide clarity and remove outdated language. Submitted proposed amendment.

JAMES FLEMING, Asst. Attorney Gral. ND Board of Respiratory Care. There are no changes in practice only in the name. Respiratory care practitioner is the same as respiratory care therapist. Discussion held regarding changes in fees. Meeting adjourned.

January 17/01. Tape 3-A-0.8 to 3. Committee reconvened. All members present. Discussion held.

SENATOR TOLLEFSON: Motion to adopt amendment. SENATOR ESPEGARD: Second.

Roll call vote: 7 yes; 0 no. Motion carried.

SENATOR KLEIN: Motion: do pass as amended. SENATOR D. MATHERN: Second

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2162

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Roll call vote: 7 yes; 0 no. Motion carried. Carrier SENATOR TOLLEFSON.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2162

Hearing Date Jan 16/01

April 03/01. Tape 1-A-35.1 to 40.3

Committee reconvened. All members present. Amendments discussed.

**Rep. Dale Severson**, District 23: Bill died because the penalty clause was considered as giving too much authority to the board. When the section was removed, bill passed.

**Senator Klein**: Motion: do pass. **Senator Mathern**: Second.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Tollefson**.

Date: January 17, 2001  
Roll Call Vote #:

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2162**

Senate Industry, Business and Labor Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken adopt amendment

Motion Made By Tollefson Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
change fees

Date: January 17/01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2162

Senate Industry, Business and Labor Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Sen Klein Seconded By Sen Det Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Tollefson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2162: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2162 was placed on the Sixth order on the calendar.

Page 3, line 22, remove the overstrike over "~~not in excess of~~", after "fifty" insert "one hundred", and remove the overstrike over "dollars"

Page 3, line 29, remove the overstrike over "~~not in excess of~~", after "thirty-five" insert "seventy", and remove the overstrike over "dollars"

Page 4, line 6, remove the overstrike over "~~not in excess of~~", after "thirty-five" insert "seventy", and remove the overstrike over "dollars"

Page 4, line 8, after "fee" insert "not in excess of twenty-five dollars"

Renumber accordingly



Date: 4/10/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2162

Senate Industry, Business and Labor Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do concur with House amendments

Motion Made By Sen Klein Seconded By Sen Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	/		Senator Every	/	
Senator Klein - Vice Chairman	/		Senator Mathern	/	
Senator Espgaard	/				
Senator Krebsbach	/				
Senator Tollefson	/				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Tollefson

If the vote is on an amendment, briefly indicate intent:

2001 HOUSE HUMAN SERVICES

SB 2162

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2162

House Human Services Committee

Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
2	x		4038 to end
3	x		1 to 101
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosh, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig

Chairman Price: I will open the hearing on SB 2162 and the clerk will read the title.

Glenn Thom - President ND Society for Respiratory Care: (See written testimony).

Rep. Porter: On page 3, section 3, the fees you are charging are being doubled. The board shall establish a fee not in excess of \$50, you are going to \$100?

Thom: It does not establish the fees, just the limit.

Rep. Porter: What's currently being charged?

Thom: \$50 for registered and \$35 for certified. This sets a maximum of double the current fees.

Rep. Porter: So you are at the maximum now and you are looking to double the maximum?

Thom: Yes, right now the wording is \$50 and that's where we have been since 16 years ago.

Rep. Porter: How many respiratory therapists are practicing in ND?

Thom: Right at 300.

Rep. Porter: Both the certified and the licensed?

Thom: Right.

Rep. Porter: On page two, starting on line 3, it talks about respiratory care is implemented by an order from a licensed physician. According to the act, a nurse practitioner cannot order a breathing treatment.

Thom: An LPN, a registered nurse can, anyone whose scope of practice includes respiratory care can initiate the services.

Rep. Porter: I am not asking who can do it? I am asking who can order it? What this says is only a licensed physician can order it.

Thom: Yes.

Rep. Porter: We have nurse practitioners ordering treatments all over the state and it looks to me that is precluded in this practices act.

Thom: The physicians assistants and licensed nurse practitioners are what is called Dependent Allied Health Care Professionals and their services are rendered under the auspices of the Physician under who they serve. So in essence still the same.

Rep. Porter: That may be the case of a physician assistant, but a nurse practitioner is not under the auspices of a physician, they could open up an office in Downtown Bismarck tomorrow morning if they wanted to.

Thom: So you are saying they are independent. That may require a change. (Asks for assistance from Jim Fleming).

Rep. Porter: The same thing happens on page 5, line 25. It talks about in other settings where respiratory care is provided in accordance with a prescription of a license physician.

Jim Fleming - Attorney Generals Office: This act has not been amended for a long time. It is possible that the last time this act was amended it does not reflect what is actually the case, that nurses assistance can prescribe medications. We may need to do some amendments if this is no longer accurate.

Thom: According to law a Nurse Practitioner has to have a joint agreement with a physician to prescribe any kinds of medication or therapy. This should still be consistent with that.

Dave Peske - ND Medical Association: In reviewing this, we are determining that the crux is if the respiratory gases used must be a medication that is prescribed then that is the tie in. The Nurse Practitioner cannot prescribe a medication unless it is under a collaborative agreement with a physician. If that were an order, an order is interpreted as a prescription by.... In other cases it may not be. I defer to the professional to tell us if all gasses used by respiratory therapists are prescribed medications or if there are other things given by that route that are not prescription.

Chairman Price: Any other questions?

Rep. Weisz: On page five, line 7-11 where you are going to collect all the costs, is that current language now on all the other ones.

Fleming: Boards who have revised their practice act more recently are using similar language, they realize that sometimes in disciplinary action the cost is a real issue. That there are times when you want to settle a case, but a holdup from settling is the fact that the board is going to be looking at his fee. For the cost of the action they want the professional to be responsible for that.

This is not something all boards have, but it is becoming more common. As well as the injunction on page 7.

Rep. Devlin: On that injunctive language on page 7, is that without proof of actual damages sustained by any person, is that normal language?

Fleming: It is common language for the boards who use it, the reason is - let's say for example there is an ad in the paper saying this clinic will soon open and deliver respiratory care, do you want to wait until someone is actually harmed at that place by delivery by an unqualified person or do you want to be able to make a preemptive strike? And get an injunction before they actually hurt somebody? Generally to get in court, you need to have somebody harmed, the idea here is not to wait until somebody is harmed, let's stop it ahead of time. That is the language you find in some sections sprinkled throughout Title 43 on the injunction language.

Chairman Price: Anyone else here in support of SB 2162?

Fleming: I am here asking for a Do Pass on this legislation. Some of the other points not raised yet are technical changes. When a board looks at its practice act and it needs to make some changes, my advice is to make other helpful changes at the same time. While the board was looking at changing its name from a practitioner to a therapist, the board asked for you to authorize specifically the late fees for renewals on page 4. The general rule is a board may only charge a fee as specified by statute. If a practitioner doesn't pay their fee on time, the board incurs an expense to contact the licensee and say get your fee in, until you do, you are not legal to practice. There might be a series of letters that get progressively sharper in tone. The board incurs an expense for that, so they would like specific authority to access that late fee. Also there is some clarification on page 4, line 17-18 as well as line 28. They are talking about having been found by the board to be grossly negligent. On line 28, it is limited to convictions, some times

