

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

21999

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2199

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2199

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 24, 2001

Tape Number	Side A	Side B	Meter #
1		x	34.0 to end
2	x		0 to 19.1
2		x	3.5 to 7.9
Committee Clerk Signature <i>Doris E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB2199 relating to optometrist treatment of primary open-angle glaucoma.

NANCY KOPP, ND Optometric Association, in favor. This bill eliminates the mandatory ophthalmologist consultation within 72 hours of initiating treatment. It is not always easy to contact the ophthalmologist, and if deemed necessary they would be consulted anyhow.

TED BECKER, OD, ND State Board of Optometry, the board supports this legislation. It allows the optometrist discretion in treatment and consultation

DORI CARLSON, ND Optometry Assn. Favor this bill. Written testimony attached.

DAVID PESKE, ND Medical Assn., Against this bill. Concern: patient safety. There are no parameters or guidelines regarding what they will be able to treat.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB2199

Hearing Date January 24, 2001

DR. GARY HEINE, MD Ophthalmologist, oppose this bill. Glaucoma is an insidious disease and treatment is difficult. It requires the experience and education physicians have. Why do physicians have to meet so many requirements to treat glaucoma and optometrist don't.

STEVE BAGAN, MD, written testimony opposing this bill.

Hearing concluded.

Committee reconvened. Tape 2 side b meter 3.5 to 7.9.

Discussion held.

SENATOR KREBSBACH: Motion: Do Pass. SENATOR KLEIN: Seconded

Roll call vote: 7 yes; 0 no; 0 absent. Carrier: SENATOR KLEIN.

REPORT OF STANDING COMMITTEE (410)
January 25, 2001 9:12 a.m.

Module No: SR-13-1580
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2199: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2199 was placed on the Eleventh order on the calendar.

2001 HOUSE HUMAN SERVICES

SB 2199

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2199

House Human Services Committee

Conference Committee

Hearing Date February 13, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		2065 to end
Tape 1		X	0 to 960
Tape 2	X		0 to 560
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

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

Chairman Price: Open the hearing on SB 2199.

Rep. Rae Ann Kelsch: SB 2199 is a very straight forward piece of legislation that would simply eliminate a requirement that certified Optometrists now have to consult with an Ophthalmologist within 72 hours after initiating treatment for glaucoma. I will defer to those that are in attendance to explain the details.

Nancy Kopp: Executive Director, N.D. Optometry Association. I appear for you in support of SB 2199. This is not a scope of practice enhancement. Optometrists across the state provide the majority of non-surgical eye care and have continuing education requirements that ensure

Page 2

House Human Services Committee

Bill/Resolution Number SB 2199

Hearing Date February 13, 2001

professional competency that keeps them updated on the latest technology and eye care procedures. This bill receives a very favorable support in the Senate IBL Committee.

Ted Becker: President of the North Dakota State Board of Optometry. Ours is the board that polices and enforces the rules passed by the Legislature. We regulate the practice of optometry in the State of North Dakota. Our board is fairly active. We have not found any problems with optometrists or complaints within the treatment of glaucoma. As of January 1, 2001 we required all optometrists to be both diagnostically and therapeutically certified in the treatment of diseases. The State Board has voted we would favor the passage of this bill.

Chairman Price: Currently they have to consult within 72 hours with their proposed treatment plan, how often is it that the Ophthalmologist changes that proposed treatment plan?

Ted Becker: In my experience, rarely.

Rep. Pollert: With the Board's responsibility, so there has never been a complaint to the board as far as the treatment of the glaucoma? To eliminate the extra step, you don't feel it is going to be a problem?

Ted Becker: No.

Rep. Weisz: You're still required to consult? It takes away the 72 hours?

Ted Becker: It is my understanding that it will remove the 72 hour requirement, and I do not believe there would be consultation.

Rep. Galvin: Does this consultation with an Ophthalmologist result in an extra charge for the patient?

Ted Becker: Generally not. It is generally done with a telephone call.

Rep. Weiler: Can you explain the liability situation in this?

Ted Becker: From the Board's point of view there would be a difficulty with liability. Certainly we are going to hold the optometrist responsible irrespectively. I would suspect that the medical board might be willing to look at the ophthalmologist and if something went wrong, then I would expect liability for the ophthalmologist.

Rep. Weiler: If this bill passes, is it going to take the ophthalmologist out of the picture as far as liability?

Ted Becker: They are out of the picture up until the point they see the patient.

Dr. Dori Carlson: Optometrist. (See support of SB 2199 in written testimony.) Optometrists have been diagnosing glaucoma for many years now and in forty five states they have been treating it. Our main goal is to be able to treat glaucoma independently without the need for mandatory consultation and assume full responsibility for our patient's care. A yes vote on SB 2199 would be appreciated.

Rep. Porter: When you first diagnose someone with glaucoma and you start the treatment, when is it typical that they would come back the following checkup? How does the treatment progress?

Dr. Dori Carlson: A lot of times glaucoma can be first treated with eye drops. If it doesn't respond, there are other methods of treatment. Usually I will have them back a week or two weeks later, sometimes three depending on their situation and see how that eye drop is working.

Dr. Avery Jones: Optometrist. (See support of SB 2199 in written testimony.) It is important to understand that doctors of optometry assume full liability for all their decisions and actions. This is true for glaucoma and all other diseases they diagnose and treat. Frankly, I think most ophthalmologists are uncomfortable with this glaucoma consultation requirement because it

increases their exposure to liability and they don't examine or follow the patient themselves.

Please vote DO PASS on SB 2199.

Chairman Price: When you make that call to the ophthalmologists, what do you tell them and what do they ask you?

Dr. Avery Jones: The case history of the patient and their physical exam findings, and this is what I propose to do. I will ask them if they have any suggestions or alterations to the treatments that I have already started.

Chairman Price: To date no ophthalmologist has changed your treatment plan?

Dr. Avery Jones: No.

David Peske: North Dakota Medical Association. In the Senate Hearing the Academy of Eye Surgeons opposed this bill. I will hand you his testimony. They felt they wanted to take that position to preserve the safety of patients in North Dakota. We're glad to hear that the optometrists with the whom the ophthalmologists work definitely on a daily basis, close collaboration, and in the same clinic in many cases. They are not opposed the concept in SB 2199 - the issue is not the collaborative practice part but taking that away in this bill is not what the ophthalmologists are opposed to. The bill from the 1999 Session put in the position we are in today. On page 1 of that bill under the second definition "diagnosis and treatment", the last line removes the treat of glaucoma - it is not permitted under this chapter, and that is what opened this up to treatment of glaucoma by optometrists. On the back of that bill you can see the new language was added and that is the exact language that is being removed under SB 2199 today. It specifies that when they treat primary open angle glaucoma the following conditions must be met, and the required consultation within 72 hours is not the issue that we're dealing with or have an objection to. The second page of the handout is the current rules of the Board of

Optometry dealing with the treatment of glaucoma. We feel that if the language is removed, then these rules may go away. They are not necessary. That might open things up a little bit farther than you as regulators might want. I'd also like to pass out a list of how other states treat this issue. The State of Minnesota was referenced in having no consultation requirements. Again to clarify we're not opposed to the removal of that consultation request. Glaucoma is a disease that has many facets and various states regulate the treatment of glaucoma in various ways. What we'd like to propose to you is an amendment to make the law specify how this is to be treated. We feel that it is important for all the licensing boards that are involved here needs to have a clear statement in the law so that they know what is permitted and isn't permitted so that it can be interpreted, not only by them, but by the courts if necessary. The amendment we are proposing amends the definition, diagnosis and treatment and at the end clearly states what we think is a patient protection issue. Given the fact that in the statutes it says "optometrist may not treat laser surgery" - that is a clarifying statement. They removed the statement that "optometrists may not treat glaucoma" in 1997. We would like to remove this statement so that everyone is clear. I have an ophthalmologist from Bismarck I would like to introduced to you, Dr. Henry Reichert.

Dr. Henry Reichert: Retired Ophthalmologist. I am retired and have practiced for 30 years in the state. I am not here as a member of an ophthalmology organization but as a citizen. Back in the '80s I was involved in negotiations relative to the first therapeutic bill. We work very well with the optometrists and this is not an adversarial issue. This is an issue of patient safety and what is best allowed for optometry, and what is best treated by ophthaologists. If you notice in the present regulation it says "primary open angle glaucoma", 90% of those patients that come into your office will have this type of glaucoma. They can adequately and do adequately take

care of this problem. I also understand that the present restriction for consultation can be burdensome at times. I would not have a problem with that being removed. I would concur with Mr. Peske's recommendation that the statute be changed so that we can allow the optometrist to not have to report if that is their recommendation.

Rep. Porter: On the 10% of the cases that would be surgical in nature, either laser or other surgical methods, if it was left out of this legislation as far as this primary open angle glaucoma, and an optometrist was trying to treat that 10% category, wouldn't it exceed their scope of training and scope of practice and put them in a medical malpractice situation regardless if it is in the law or not?

Dr. Reichert: Yes it would, but what is important was that I said 90% of the patients will be treated with medication. Those people, if they become surgical problems, do so after medicine has been a failure. Most optometrists have a very good relationship with ophthalmologists and that would be taken care of. Emergency situations need to be seen by a ophthalmologist right away without any delay.

Rep. Metcalf: Is it easy to diagnose the difference between open angle glaucoma and other types?

Dr. Reichert: I would expect the optometrist would know the difference and we would expect that. The issue isn't always in the diagnosis, the issue is in the treatment.

Rep. Weisz: Mr. Peske, your proposed amendment, did you offer that on the Senate side?

David Peske: It was not offered on the Senate side. At that point the ophthalmologists who were directing the issue felt that it was important that they get on record in opposition to the concept.

Rep. Cleary: May I ask the optometrists if they agree with this amendment?

Chairman Price: Who wants to speak for the group?

