

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1166

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1166
1/25/2021

Occupational licensing of foreign Practitioners who are residents of the state & report to legislative management
--

(10:37) Chairman Lefor calls the hearing on HB 1166.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Foreign Practitioners
- Delegating licensing to another state
- Reciprocity in ND

Rep Toman~District 24 introduces the bill.

Dr Robert Sticca~ND Board of Medicine: Attachment # 2216.

Mark J Hardy~PharmD-Executive Director of the ND State Board of Pharmacy: Attachment # 2898.

House Industry, Business and Labor Committee
HB 1166
Jan 25, 2021
Page 2

Chairman Lefor closes the hearing on HB 1166.

Additional written testimony: Attachment #2718.

(10:58) End time.

Ellen LeTang, Committee Clerk

HOUSE INDUSTRY, BUSINESS, AND LABOR COMMITTEE
JANUARY 25, 2021

TESTIMONY OF
NORTH DAKOTA BOARD OF MEDICINE
HOUSE BILL NO. 1166

Chairman Lefor, members of the Committee. I am Dr. Robert Sticca, appearing on behalf of the North Dakota Board of Medicine, in opposition to HB 1166.

The Board of Medicine already offers an expedited licensure process for foreign practitioners through the Interstate Medical Licensure Compact, which was adopted in 2019 and codified in chapter 43-17.4. Section 5 of the Compact outlines the requirements for the expedited license and would conflict with the process and standards outlined in Section 4 of the proposed bill. If forced to implement these conflicting standards, the Board runs the risk of being found in default of performing its obligations and responsibilities under the Compact, resulting in the Compact Commission terminating North Dakota's membership and ability to issue licenses under the Compact. The Commission also has the authority to initiate legal action against North Dakota to enforce the Compact, which could include seeking damages.

Licenses issued under the Compact have sky-rocketed – to date, the Board has issued over 500 licenses under the Compact. The Board does not want to jeopardize these licenses or its ability to continue as part of the Compact.

Finally, it is not clear from the bill who would qualify as a “resident of the state” as that phrase is not defined in the bill or chapter 43-51.

It is for these reasons the Board requests a do not pass on HB 1166, or, in the alternative, requests it be removed from the bill on page 3, line 27, and page 4, line 13.

Thank you for the opportunity to address the committee and I would stand for any questions.



State of North Dakota
Doug Burgum, Governor

2898
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STATE BOARD OF PHARMACY

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Mark J. Hardy, PharmD, R.Ph.
Executive Director

House Bill No 1166 – Licensure of Foreign Practitioners

House Industry, Business and Labor Committee – JW327C

9:00 AM - Monday – January 25, 2021

Chairman Lefor, members of the House Industry, Business and Labor Committee, for the record I am Mark J. Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy.

I appreciate the opportunity to discuss with you our concerns on House Bill 1166 today.

The Board of Pharmacy is very concerned with the language in this bill mandating Boards to issue provisional licenses to practice without assuring competencies are met and there is no disciplinary action to be considered.

I can certainly understand the intent of what this bill is hoping to accomplish. This is to ease a licensure path and process for foreign practitioners residing, likely based on a relocation in North Dakota. There may even be certain Boards or professions where this approach may be reasonable. I would point you towards a study commissioned by the Department of Commerce during the interim indicating the efficiency in which Boards operate with a median of 7 days to issuance of licenses in the state.

One large issue with this approach is we would delegate licensing decisions to that of another state. In the case of our profession, we could have a pharmacist who had disciplinary actions in another state pending, which we would have no awareness of, potentially getting a "provisional" license to practice in our state. It sets a dangerous precedent to trust another state's decisions when it is a North Dakota citizens that are at risk.

The Board of Pharmacy has safeguards in place to ensure the individuals are properly educated and trained to practice pharmacy for the wellbeing and safety of the citizens in North Dakota. The North Dakota Board of Pharmacy currently participates in an electronic license transfer program [eLTLP] through the National Association of Boards of Pharmacy [NABP] in which all 50 states are members and participate. With eLTP a pharmacist licensed by one jurisdiction can request licensure transfer; their licensure is then verified along with any disciplinary actions and electronically sent to the state the professional wishes to become licensed. Understandably, Boards of Pharmacy are more mature with this capability due to the unique aspects of our profession. Also, there is a state law examination for the jurisdiction the person wishes to practice within.

For our profession, specifically, the law is such a critical aspect of pharmacy practice. There are tremendous variations in controlled substance laws, dispensing and professional responsibility laws across state lines making pharmacists a safeguard between the prescribing practitioner and the patient.

The current license transfer process is very easy to navigate, allowing a candidate to sit for the computerized law test at a testing center of their choice, wherever is most convenient, and the results are reported within days.

The law where the changes are proposed represent a compromise in an attempt to meet Department of Defense standards of military members and military spouses need to have between states. This is very narrow due to their transient nature of military service.

The Board of Pharmacy respectfully asks for Do NOT Pass vote on HB 1166.

Thank you for listening to my testimony and I will be happy to answer any questions.

HOUSE BILL NO. 1166
INDUSTRY, BUSINESS AND LABOR COMMITTEE
Testimony
Corey Kost, Vice Chair
NORTH DAKOTA REAL ESTATE APPRAISER
QUALIFICATIONS AND ETHICS BOARD
January 25, 2021

Mr. Chairman, members of the committee, my name is Corey Kost and I am Vice Chair of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I am also a practicing appraiser based in Bismarck. I am writing on behalf of the Appraiser Board to request that the Appraiser Board be exempt from its application. While the Board supports the Bill's overall intent, its application to the Appraiser Board would be problematic.

The Appraiser Board is unique in a number of ways. These unique characteristics are probably the reason the Appraiser Board was exempt from 43-51 in the first place. The Board's appraiser program and appraiser management company program are monitored at the federal level by the Appraisal Subcommittee (ASC). Statutes and rules that are consistent with ASC requirements for compliance with Title XI as amended by the Dodd-Frank Act must be in place or the State's program(s) will be determined to be non-compliant, meaning 1) the public will no longer be able to obtain an appraisal for a federally related transaction (FRT), 2) appraisers will no longer be able to complete appraisals for FRTs, and 3) lenders will no longer be able to use appraisal management companies to facilitate appraisals for FRTs.

As currently written, the Board has concerns that complying with the language in HB 1166 would jeopardize the programs' compliance with the federal law, as promulgated by the ASC. The Appraiser Board has already adopted a reciprocal license statute (NDCC

43-23.3-04.1) that is consistent with ASC requirements from which we cannot deviate while maintaining compliance. Reciprocity in North Dakota is open to either 1) a resident who is licensed or certified in good standing in another state, or 2) an out-of-state appraiser, licensed or certified in good standing in another state.

The statute differs from the language in HB 1166. Specifically, it requires that the credentialing requirements of the home state be substantially equivalent to North Dakota's licensure requirements, including that the individual has complied with the standards of professional appraisal practice and ethical rules. As written, this Bill would require the Board to issue a license to a foreign practitioner that has a license in *any* state, even if 1) that state does not have licensure requirements equivalent to North Dakota, 2) that state is not in compliance with Title XI as determined by the ASC, or 3) the applicant has had their license revoked in one or more other states.

In closing, the Appraiser Board requests exemption from this Bill in order to maintain our federal compliance.

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1166
2/3/2021

Occupational licensing of foreign practitioners who are residents of the state & report to legislative management
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(3:44) Chairman Lefor called the hearing to order.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Committee work

Rep Toman amendment 21.0335.01001. Attachment #5294.

Chairman Lefor held the bill & ask Legislative Council for more information.

(3:51) End time.

Ellen LeTang, Committee Clerk

21.0335.01001

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1166

Introduced by

Representatives Toman, Christensen, Louser

Senator O. Larsen

1 A BILL for an Act to create and enact sections 43-51-12.1 and 43-51-12.2 of the North Dakota
 2 Century Code, relating to occupational licensing of foreign practitioners who are residents of the
 3 state; to amend and reenact subsection 3 of section 15.1-13-17 and sections 15.1-13-17.1, and
 4 15.1-18-12, ~~43-51-11.1, and 43-51-11.2~~ of the North Dakota Century Code, relating to
 5 occupational licensing of ~~foreign practitioners who are residents of the state~~ teachers; and to
 6 provide for a report to the legislative management.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 **SECTION 1. AMENDMENT.** Subsection 3 of section 15.1-13-17 of the North Dakota
 9 Century Code is amended and reenacted as follows:

10 3. The board shall grant a teaching license to an applicant who is a military spouse or a
 11 foreign practitioner who is a resident of the state who meets the requirements of
 12 section 43-51-11.1 or 43-51-12.1.

13 **SECTION 2. AMENDMENT.** Section 15.1-13-17.1 of the North Dakota Century Code is
 14 amended and reenacted as follows:

15 **15.1-13-17.1. ~~Members of the military~~ Military members - Military spouses - Foreign**
 16 **practitioners who are state residents.**

17 1. Notwithstanding contrary provisions of this chapter regarding licensure and licensure
 18 renewal, sections 43-51-11 ~~and~~, 43-51-11.1, 43-51-12.1, and 43-51-12.2 regarding
 19 licensure renewal of a military member and licensure of a military spouse or a foreign
 20 practitioner who is a resident of the state, apply to a license issued or renewed under
 21 this chapter.

22 2. Rules adopted by the board under this chapter must comply with sections 43-51-11
 23 ~~and~~, 43-51-11.1, ~~and~~ 43-51-11.2, 43-51-12.1, and 43-51-12.2.

1 **SECTION 3. AMENDMENT.** Section 15.1-18-12 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15.1-18-12. Military spouses - Foreign practitioners who are state residents.**

4 Notwithstanding contrary provisions of this chapter regarding licensure qualifications,
5 ~~section~~sections 43-51-11.1 and 43-51-12.1, regarding licensure of a military spouse or a foreign
6 practitioner who is a resident of the state, ~~applies~~apply to an applicant's qualifications for
7 licensure.

8 ~~— **SECTION 4. AMENDMENT.** Section 43-51-11.1 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~— **43-51-11.1. Military spouses - Foreign practitioners who are state residents -**~~
11 ~~**Licensure.**~~

12 ~~— 1. This section applies to an applicant who is a military spouse or a foreign practitioner~~
13 ~~who is a resident of the state.~~

14 ~~— 2. A board shall adopt rules regarding licensure of a military spousean applicant or shall~~
15 ~~grant on a case-by-case basis exceptions to the board's licensing standards to allow a~~
16 ~~military spousean applicant to practice the occupation or profession in the state if upon~~
17 ~~application to the board:~~

18 ~~— a. The military spouseapplicant demonstrates competency in the occupation or~~
19 ~~profession through methods or standards determined by the board which must~~
20 ~~include experience in the occupation or profession for at least two of the four~~
21 ~~years preceding the date of application under this section; and~~

22 ~~— b. The board determines the issuance of the license will not substantially increase~~
23 ~~the risk of harm to the public. A board with authority to require an applicant to~~
24 ~~submit to a statewide and national criminal history record check under section~~
25 ~~12-60-24 may order such a record check under this subdivision.~~

26 ~~— 2.3. A board shall issue a provisional license or temporary permit to a military~~
27 ~~spousean applicant for which the licensure requirements under subsection 12 have~~
28 ~~been substantially met. A board may not charge a military spouse any fees for a~~
29 ~~provisional license or temporary permit under this subsection. A provisional license or~~
30 ~~temporary permit issued under this subsection may not exceed two years and remains~~
31 ~~valid while the military spouseapplicant is making progress toward satisfying the~~

unmet licensure requirements. A military spouse~~An applicant~~ may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:

~~a. The board grants or denies the military spouseapplicant a North Dakota license under subsection 12 or grants a North Dakota license under the traditional licensure method;~~

~~b. The provisional license or temporary permit expires;~~

~~c. The military spouseapplicant fails to comply with the terms of the provisional license or temporary permit; or~~

~~d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.~~

~~3.4. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spousean applicant in the same manner as provided under subsections 12 and 23 regardless of whether the board has adopted rules to subject the board to this chapter.~~

~~4.5. A military spouseAn individual issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.~~

~~5.6. If within thirty days of receipt of a completed application under subsection 12 the board does not grant or deny a license under subsection 12 or does not issue a provisional license or temporary permit under subsection 23, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 12 or issues a provisional license or temporary permit under subsection 23.~~

~~6.7. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.~~

1 ~~SECTION 5. AMENDMENT.~~ Section 43-51-11.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~43-51-11.2. Members of the military and militaryMilitary members - Military spouses -~~
4 ~~Foreign practitioners who are state residents - Licensure applications.~~

5 ~~1. On each licensure application and renewal form, a board shall inquire and maintain a~~
6 ~~record of whether an applicant or licensee is a member of the military or, a military~~
7 ~~spouse, or a foreign practitioner who is a resident of the state. If an applicant self-~~
8 ~~identifies as and provides the board with satisfactory proof of being a military spouse~~
9 ~~or a foreign practitioner who is a resident of the state, the board immediately shall~~
10 ~~commence the process to issue a license, provisional license, or temporary permit~~
11 ~~under section 43-51-11.1.~~

12 ~~2. For purposes of this section, the term "board" includes the state board of~~
13 ~~accountancy, state electrical board, North Dakota real estate appraiser qualifications~~
14 ~~and ethics board, state real estate commission, secretary of state with respect to~~
15 ~~contractor licensing, North Dakota board of medicine, and state board of dental~~
16 ~~examiners.~~

17 **SECTION 4.** Section 43-51-12.1 of the North Dakota Century Code is created and enacted
18 as follows:

19 **43-51-12.1. Foreign practitioners who are state residents - Licensure.**

20 1. This section applies to an applicant who is a foreign practitioner who is a resident of
21 the state.

22 2. A board shall adopt rules regarding licensure of an applicant or shall grant on a
23 case-by-case basis exceptions to the board's licensing standards to allow an applicant
24 to practice the occupation or profession in the state if upon application to the board:

25 a. The applicant demonstrates competency in the occupation or profession through
26 methods or standards determined by the board which must include experience in
27 the occupation or profession for at least two of the four years preceding the date
28 of application under this section; and

29 b. The board determines the issuance of the license will not substantially increase
30 the risk of harm to the public. A board with authority to require an applicant to

submit to a statewide and national criminal history record check under section 12-60-24 may order a record check under this subdivision.

3. A board shall issue a provisional license or temporary permit to an applicant for which the licensure requirements under subsection 2 have been substantially met. A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the applicant is making progress toward satisfying the unmet licensure requirements. An applicant may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:

a. The board grants or denies the applicant a North Dakota license under subsection 2 or grants a North Dakota license under the traditional licensure method;

b. The provisional license or temporary permit expires;

c. The applicant fails to comply with the terms of the provisional license or temporary permit; or

d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.

4. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to an applicant in the same manner as provided under subsections 2 and 3 regardless of whether the board has adopted rules to subject the board to this chapter.

5. An individual issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.

6. If within thirty days of receipt of a completed application under subsection 2 the board does not grant or deny a license under subsection 2 or does not issue a provisional license or temporary permit under subsection 3, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 2 or issues a provisional license or temporary permit under subsection 3.

7. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners.

SECTION 5. Section 43-51-12.2 of the North Dakota Century Code is created and enacted as follows:

43-51-12.2. Foreign practitioners who are state residents - Licensure applications.

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a foreign practitioner who is a resident of the state. If an applicant self-identifies as and provides the board with satisfactory proof of being a foreign practitioner who is a resident of the state, the board immediately shall commence the process to issue a license, provisional license, or temporary permit under section 43-51-12.1.

2. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners.

SECTION 6. OCCUPATIONAL LICENSURE BOARDS - REPORT TO LEGISLATIVE

MANAGEMENT. During the 2021-22 interim, each occupational and professional board shall review its licensure laws and rules to determine whether the laws and rules are consistent with sections ~~43-51-11.1~~43-51-12.1 and ~~43-51-11.2~~43-51-12.2. Before August 2022, each occupational and professional board shall submit a report to the legislative management on the status and outcome of that board's review of its laws and rules. Each board shall prepare and request introduction of a bill to the sixty-eighth legislative assembly to make the board's laws consistent with sections ~~43-51-11.1~~43-51-12.1 and ~~43-51-11.2~~43-51-12.2.

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1166
2/8/2021

Occupational licensing of foreign Practitioners who are residents of the state & report to legislative management
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(11:25) Chairman Lefor called the hearing to order.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Committee work.

Rep Toman answered questions on amendment. Attachment 5294.

Rep Schauer moved amendment 21.0335.01001.

Rep Thomas second.

Voice vote Motion carried.

Rep Schauer moved Do Pass as Amended.

Rep D Ruby second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	N
Rep Hagert	N
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	N
Rep Ostlie	N
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	N
Rep P Anderson	Y

Vote roll call taken Motion carried 9-5-0 & Rep Thomas is the carrier.

(11:28) End time.

Ellen LeTang, Committee Clerk

JP
2/8/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1166

Page 1, line 1, after "Act" insert "to create and enact sections 43-51-12.1 and 43-51-12.2 of the North Dakota Century Code, relating to occupational licensing of foreign practitioners who are residents of the state;"

Page 1, line 2, replace the first comma with "and"

Page 1, line 2, remove ", 43-51-11.1, and 43-51-11.2"

Page 1, line 3, replace "foreign practitioners who are residents of the state" with "teachers"

Page 1, line 10, after "43-51-11.1" insert "or 43-51-12.1"

Page 1, line 16, overstrike "and" and insert immediately thereafter an underscored comma

Page 1, line 16, after the second comma insert "43-51-12.1, and 43-51-12.2"

Page 1, line 20, remove "and"

Page 1, line 20, after "43-51-11.2" insert ", 43-51-12.1, and 43-51-12.2"

Page 2, line 2, overstrike "section" and insert immediately thereafter "sections"

Page 2, line 2, after "43-51-11.1" insert "and 43-51-12.1"

Page 2, line 3, overstrike "applies" and insert immediately thereafter "apply"

Page 2, remove lines 4 through 29

Page 3, remove lines 1 through 29

Page 4, replace lines 1 through 13 with:

"SECTION 4. Section 43-51-12.1 of the North Dakota Century Code is created and enacted as follows:

43-51-12.1. Foreign practitioners who are state residents - Licensure.

1. This section applies to an applicant who is a foreign practitioner who is a resident of the state.
2. A board shall adopt rules regarding licensure of an applicant or shall grant on a case-by-case basis exceptions to the board's licensing standards to allow an applicant to practice the occupation or profession in the state if upon application to the board:
 - a. The applicant demonstrates competency in the occupation or profession through methods or standards determined by the board which must include experience in the occupation or profession for at least two of the four years preceding the date of application under this section; and
 - b. The board determines the issuance of the license will not substantially increase the risk of harm to the public. A board with authority to

require an applicant to submit to a statewide and national criminal history record check under section 12-60-24 may order a record check under this subdivision.

OK
2/8/21

3. A board shall issue a provisional license or temporary permit to an applicant for which the licensure requirements under subsection 2 have been substantially met. A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the applicant is making progress toward satisfying the unmet licensure requirements. An applicant may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:
 - a. The board grants or denies the applicant a North Dakota license under subsection 2 or grants a North Dakota license under the traditional licensure method;
 - b. The provisional license or temporary permit expires;
 - c. The applicant fails to comply with the terms of the provisional license or temporary permit; or
 - d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.
4. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to an applicant in the same manner as provided under subsections 2 and 3 regardless of whether the board has adopted rules to subject the board to this chapter.
5. An individual issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.
6. If within thirty days of receipt of a completed application under subsection 2 the board does not grant or deny a license under subsection 2 or does not issue a provisional license or temporary permit under subsection 3, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 2 or issues a provisional license or temporary permit under subsection 3.
7. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners.

SECTION 5. Section 43-51-12.2 of the North Dakota Century Code is created and enacted as follows:

43-51-12.2. Foreign practitioners who are state residents - Licensure applications.

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2/8/21

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a foreign practitioner who is a resident of the state. If an applicant self-identifies as and provides the board with satisfactory proof of being a foreign practitioner who is a resident of the state, the board immediately shall commence the process to issue a license, provisional license, or temporary permit under section 43-51-12.1.
2. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners."

Page 4, line 17, replace "43-51-11.1" with "43-51-12.1"

Page 4, line 17, replace "43-51-11.2" with "43-51-12.2"

Page 4, line 21, replace "43-51-11.1" with "43-51-12.1"

Page 4, line 21, replace "43-51-11.2" with "43-51-12.2"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1166: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1166 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact sections 43-51-12.1 and 43-51-12.2 of the North Dakota Century Code, relating to occupational licensing of foreign practitioners who are residents of the state;"

Page 1, line 2, replace the first comma with "and"

Page 1, line 2, remove ", 43-51-11.1, and 43-51-11.2"

Page 1, line 3, replace "foreign practitioners who are residents of the state" with "teachers"

Page 1, line 10, after "43-51-11.1" insert "or 43-51-12.1"

Page 1, line 16, overstrike "and" and insert immediately thereafter an underscored comma

Page 1, line 16, after the second comma insert "43-51-12.1, and 43-51-12.2"

Page 1, line 20, remove "and"

Page 1, line 20, after "43-51-11.2" insert ", 43-51-12.1, and 43-51-12.2"

Page 2, line 2, overstrike "section" and insert immediately thereafter "sections"

Page 2, line 2, after "43-51-11.1" insert "and 43-51-12.1"

Page 2, line 3, overstrike "applies" and insert immediately thereafter "apply"

Page 2, remove lines 4 through 29

Page 3, remove lines 1 through 29

Page 4, replace lines 1 through 13 with:

"SECTION 4. Section 43-51-12.1 of the North Dakota Century Code is created and enacted as follows:

43-51-12.1. Foreign practitioners who are state residents - Licensure.

1. This section applies to an applicant who is a foreign practitioner who is a resident of the state.
2. A board shall adopt rules regarding licensure of an applicant or shall grant on a case-by-case basis exceptions to the board's licensing standards to allow an applicant to practice the occupation or profession in the state if upon application to the board:
 - a. The applicant demonstrates competency in the occupation or profession through methods or standards determined by the board which must include experience in the occupation or profession for at least two of the four years preceding the date of application under this section; and
 - b. The board determines the issuance of the license will not substantially increase the risk of harm to the public. A board with authority to require an applicant to submit to a statewide and national

criminal history record check under section 12-60-24 may order a record check under this subdivision.

3. A board shall issue a provisional license or temporary permit to an applicant for which the licensure requirements under subsection 2 have been substantially met. A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the applicant is making progress toward satisfying the unmet licensure requirements. An applicant may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:
 - a. The board grants or denies the applicant a North Dakota license under subsection 2 or grants a North Dakota license under the traditional licensure method;
 - b. The provisional license or temporary permit expires;
 - c. The applicant fails to comply with the terms of the provisional license or temporary permit; or
 - d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.
4. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to an applicant in the same manner as provided under subsections 2 and 3 regardless of whether the board has adopted rules to subject the board to this chapter.
5. An individual issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.
6. If within thirty days of receipt of a completed application under subsection 2 the board does not grant or deny a license under subsection 2 or does not issue a provisional license or temporary permit under subsection 3, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 2 or issues a provisional license or temporary permit under subsection 3.
7. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners.

SECTION 5. Section 43-51-12.2 of the North Dakota Century Code is created and enacted as follows:

43-51-12.2. Foreign practitioners who are state residents - Licensure applications.

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a foreign practitioner who is a resident of the state. If an applicant self-identifies as and provides the board with satisfactory proof of being a foreign practitioner who is a resident of the state, the board immediately shall

commence the process to issue a license, provisional license, or temporary permit under section 43-51-12.1.

2. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners."

Page 4, line 17, replace "43-51-11.1" with "43-51-12.1"

Page 4, line 17, replace "43-51-11.2" with "43-51-12.2"

Page 4, line 21, replace "43-51-11.1" with "43-51-12.1"

Page 4, line 21, replace "43-51-11.2" with "43-51-12.2"

Renumber accordingly

21.0335.01001

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1166

Introduced by

Representatives Toman, Christensen, Louser

Senator O. Larsen

1 A BILL for an Act to create and enact sections 43-51-12.1 and 43-51-12.2 of the North Dakota
 2 Century Code, relating to occupational licensing of foreign practitioners who are residents of the
 3 state; to amend and reenact subsection 3 of section 15.1-13-17 and sections 15.1-13-17.1, and
 4 15.1-18-12, ~~43-51-11.1, and 43-51-11.2~~ of the North Dakota Century Code, relating to
 5 occupational licensing of ~~foreign practitioners who are residents of the state~~ teachers; and to
 6 provide for a report to the legislative management.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 **SECTION 1. AMENDMENT.** Subsection 3 of section 15.1-13-17 of the North Dakota
 9 Century Code is amended and reenacted as follows:

10 3. The board shall grant a teaching license to an applicant who is a military spouse or a
 11 foreign practitioner who is a resident of the state who meets the requirements of
 12 section 43-51-11.1 or 43-51-12.1.

13 **SECTION 2. AMENDMENT.** Section 15.1-13-17.1 of the North Dakota Century Code is
 14 amended and reenacted as follows:

15 **15.1-13-17.1. ~~Members of the military~~ Military members - Military spouses - Foreign**
 16 **practitioners who are state residents.**

17 1. Notwithstanding contrary provisions of this chapter regarding licensure and licensure
 18 renewal, sections 43-51-11 ~~and~~, 43-51-11.1, 43-51-12.1, and 43-51-12.2 regarding
 19 licensure renewal of a military member and licensure of a military spouse or a foreign
 20 practitioner who is a resident of the state, apply to a license issued or renewed under
 21 this chapter.

22 2. Rules adopted by the board under this chapter must comply with sections 43-51-11
 23 ~~and~~, 43-51-11.1, ~~and~~ 43-51-11.2, 43-51-12.1, and 43-51-12.2.

1 **SECTION 3. AMENDMENT.** Section 15.1-18-12 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **15.1-18-12. Military spouses - Foreign practitioners who are state residents.**

4 Notwithstanding contrary provisions of this chapter regarding licensure qualifications,
5 ~~section~~sections 43-51-11.1 and 43-51-12.1, regarding licensure of a military spouse or a foreign
6 practitioner who is a resident of the state, ~~applies~~apply to an applicant's qualifications for
7 licensure.

8 ~~— **SECTION 4. AMENDMENT.** Section 43-51-11.1 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~— **43-51-11.1. Military spouses - Foreign practitioners who are state residents -**~~
11 ~~**Licensure.**~~

12 ~~— 1. This section applies to an applicant who is a military spouse or a foreign practitioner~~
13 ~~who is a resident of the state.~~

14 ~~— 2. A board shall adopt rules regarding licensure of a military spousean applicant or shall~~
15 ~~grant on a case-by-case basis exceptions to the board's licensing standards to allow a~~
16 ~~military spousean applicant to practice the occupation or profession in the state if upon~~
17 ~~application to the board:~~

18 ~~— a. The military spouseapplicant demonstrates competency in the occupation or~~
19 ~~profession through methods or standards determined by the board which must~~
20 ~~include experience in the occupation or profession for at least two of the four~~
21 ~~years preceding the date of application under this section; and~~

22 ~~— b. The board determines the issuance of the license will not substantially increase~~
23 ~~the risk of harm to the public. A board with authority to require an applicant to~~
24 ~~submit to a statewide and national criminal history record check under section~~
25 ~~12-60-24 may order such a record check under this subdivision.~~

26 ~~— 2.3. A board shall issue a provisional license or temporary permit to a military~~
27 ~~spousean applicant for which the licensure requirements under subsection 12 have~~
28 ~~been substantially met. A board may not charge a military spouse any fees for a~~
29 ~~provisional license or temporary permit under this subsection. A provisional license or~~
30 ~~temporary permit issued under this subsection may not exceed two years and remains~~
31 ~~valid while the military spouseapplicant is making progress toward satisfying the~~

unmet licensure requirements. A military spouse~~An applicant~~ may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:

~~a. The board grants or denies the military spouseapplicant a North Dakota license under subsection 12 or grants a North Dakota license under the traditional licensure method;~~

~~b. The provisional license or temporary permit expires;~~

~~c. The military spouseapplicant fails to comply with the terms of the provisional license or temporary permit; or~~

~~d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.~~

~~3.4. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spousean applicant in the same manner as provided under subsections 12 and 23 regardless of whether the board has adopted rules to subject the board to this chapter.~~

~~4.5. A military spouseAn individual issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.~~

~~5.6. If within thirty days of receipt of a completed application under subsection 12 the board does not grant or deny a license under subsection 12 or does not issue a provisional license or temporary permit under subsection 23, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 12 or issues a provisional license or temporary permit under subsection 23.~~

~~6.7. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.~~

1 ~~SECTION 5. AMENDMENT.~~ Section 43-51-11.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~43-51-11.2. Members of the military and militaryMilitary members - Military spouses -~~
4 ~~Foreign practitioners who are state residents - Licensure applications.~~

5 ~~1. On each licensure application and renewal form, a board shall inquire and maintain a~~
6 ~~record of whether an applicant or licensee is a member of the military or, a military~~
7 ~~spouse, or a foreign practitioner who is a resident of the state. If an applicant self-~~
8 ~~identifies as and provides the board with satisfactory proof of being a military spouse~~
9 ~~or a foreign practitioner who is a resident of the state, the board immediately shall~~
10 ~~commence the process to issue a license, provisional license, or temporary permit~~
11 ~~under section 43-51-11.1.~~

12 ~~2. For purposes of this section, the term "board" includes the state board of~~
13 ~~accountancy, state electrical board, North Dakota real estate appraiser qualifications~~
14 ~~and ethics board, state real estate commission, secretary of state with respect to~~
15 ~~contractor licensing, North Dakota board of medicine, and state board of dental~~
16 ~~examiners.~~

17 **SECTION 4.** Section 43-51-12.1 of the North Dakota Century Code is created and enacted
18 as follows:

19 **43-51-12.1. Foreign practitioners who are state residents - Licensure.**

20 1. This section applies to an applicant who is a foreign practitioner who is a resident of
21 the state.

22 2. A board shall adopt rules regarding licensure of an applicant or shall grant on a
23 case-by-case basis exceptions to the board's licensing standards to allow an applicant
24 to practice the occupation or profession in the state if upon application to the board:

25 a. The applicant demonstrates competency in the occupation or profession through
26 methods or standards determined by the board which must include experience in
27 the occupation or profession for at least two of the four years preceding the date
28 of application under this section; and

29 b. The board determines the issuance of the license will not substantially increase
30 the risk of harm to the public. A board with authority to require an applicant to

submit to a statewide and national criminal history record check under section 12-60-24 may order a record check under this subdivision.

3. A board shall issue a provisional license or temporary permit to an applicant for which the licensure requirements under subsection 2 have been substantially met. A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the applicant is making progress toward satisfying the unmet licensure requirements. An applicant may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:

a. The board grants or denies the applicant a North Dakota license under subsection 2 or grants a North Dakota license under the traditional licensure method;

b. The provisional license or temporary permit expires;

c. The applicant fails to comply with the terms of the provisional license or temporary permit; or

d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.

4. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to an applicant in the same manner as provided under subsections 2 and 3 regardless of whether the board has adopted rules to subject the board to this chapter.

5. An individual issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.

6. If within thirty days of receipt of a completed application under subsection 2 the board does not grant or deny a license under subsection 2 or does not issue a provisional license or temporary permit under subsection 3, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 2 or issues a provisional license or temporary permit under subsection 3.

7. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners.

SECTION 5. Section 43-51-12.2 of the North Dakota Century Code is created and enacted as follows:

43-51-12.2. Foreign practitioners who are state residents - Licensure applications.

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a foreign practitioner who is a resident of the state. If an applicant self-identifies as and provides the board with satisfactory proof of being a foreign practitioner who is a resident of the state, the board immediately shall commence the process to issue a license, provisional license, or temporary permit under section 43-51-12.1.

2. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, and state board of dental examiners.

SECTION 6. OCCUPATIONAL LICENSURE BOARDS - REPORT TO LEGISLATIVE

MANAGEMENT. During the 2021-22 interim, each occupational and professional board shall review its licensure laws and rules to determine whether the laws and rules are consistent with sections ~~43-51-11.1~~43-51-12.1 and ~~43-51-11.2~~43-51-12.2. Before August 2022, each occupational and professional board shall submit a report to the legislative management on the status and outcome of that board's review of its laws and rules. Each board shall prepare and request introduction of a bill to the sixty-eighth legislative assembly to make the board's laws consistent with sections ~~43-51-11.1~~43-51-12.1 and ~~43-51-11.2~~43-51-12.2.

2021 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1166

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Room JW216, State Capitol

HB 1166
3/12/2021

Relating to occupational licensing of foreign practitioners who are residents of the state; relating to occupational licensing of teachers; to provide for a report to the legislative management.

Chair Vedaa opened the hearing at 9:30 AM with Sen Vedaa, Meyer, Elkin, K Roers, Wever, Wobbema, and Marcellais present.

Discussion Topics:

- Foreign practitioners
- Military spouses
- Requirements of licensure
- Primary documentation
- Expedited licensure
-

Rep. Nathan Toman – Dist. 34 - introduced the bill

Rita Sommers –ND Board of Dental Examiners - opposed #8931

Corey Kost - ND Appraiser Board - opposed #8892

Mandy Harlow – ND State Board of Accountancy – opposed #8776

Bill Kalanek – ND CPA Society - opposed #8893

Mark Hardy – ND Board of Pharmacy - opposed #8875

Stacey Pfenning – ND Board of Nursing - testified opposed- #8644

Katie Ralston – ND Dept of Commerce – testified neutral #8898

Rebecca Pitkin – ND ESPB –testified neutral #8894

Additional written testimony: None

Adjourned at 10:07 AM

Pam Dever, Committee Clerk

SENATE GOVERNMENT AND VETERANTS AFFAIRS
MARCH 12, 2021 | ROOM JW216 | 9:30 AM

TESTIMONY OF
NORTH DAKOTA BOARD OF DENTAL EXAMINERS
HOUSE BILL 1166 - OPPOSED

Good Morning Chairman Kasper and Members of the Committee,

My name is Rita Sommers, and I serve as the Executive Director of the North Dakota Board of Dental Examiners. The language in the bill is very concerning to the NDBDE for the following reasons:

1. The language indicates that a foreign practitioner who lives in North Dakota must be given a "provisional" license. The Board has rules allowing temporary licensure for an applicant who demonstrates competency in the occupation of dentistry. The language in HB 1166 would essentially require full ND licensure of a foreign practitioner based on licensing decisions of another entity without consideration of any pending disciplinary actions in the jurisdiction in which they practice. This is not an uncommon circumstance. The language in HB 1166 may potentially require the Board's licensure of a dentist who is, or expects to be, at risk due to a pending disciplinary action in another jurisdiction.
2. The language may jeopardize the NDBDE's ability to sufficiently investigate the background of the applicant. Each state must provide their own due diligence in their charge to protect the citizens of ND.
3. While the intent of HB 1166 is evident and may be a good fit for other occupational boards, a temporary license is not granted without risk to the public if the Board does not review the applicant's credentials, complete background checks and require applicants to sit for the jurisprudence examination. Candidates can now sit for the exam in front of their own computer and results are immediate. The jurisprudence examination provides a level of assurance that applicants understand administrative rules governing North Dakota practitioners. Each state is unique in its administrative rules related to duties for practitioners who work under the direction of the dentist. Anyone granted any sort of

license, temporary, provisional or permanent should know and understand North Dakota's rules pertaining to dentistry.

4. Since the last legislative session we have focused on expediting our licensing process and have removed the requirement that dentists go through a credentialing agency. Rather, the Board now completes most of the leg work required for the license by a credentialing process, removing weeks and sometimes months from the application process. Once the background checks are complete and the applicant has produced the required credentials, the applicant's license is expedited due to elimination of variables which can delay the process. The Board has not diminish other licensing requirements in other ways (e.g., license verification, evidence of testing requirements, accredited education, etc.). The NDBDE does not delegate its responsibility to assure minimal competency or rely on the assessment from other entities/states and remains diligent in its processes.

5. The Board issues temporary licenses to individuals who demonstrate all North Dakota requirements have been substantially met based on rules that indicate those requirements. The language in 1166 is problematic as a result of the conflicting and vague information the bill proposes compared to NDBDE's existing rules.

Therefore, the NDBDE urges this committee to DO NOT PASS HB 1166. Alternatively, please remove the ND Board of Dental Examiners from the language in this bill on page 3, line 23, and page 4, line 6.

Subsequent to the 2019 session and legislative efforts to facilitate licensure for military and military spouses, the ND Board of Dental Examiners has provided foreign practitioners who indicated they are military spouses or members of the military the swiftest possible licensing process without compromising the statutory and administrative safeguards in place to ensure practitioners are appropriately educated and have met minimal requirements of requisite examination.

Thank you for the opportunity to discuss the NDBDE's concerns, and I would be pleased to answer any questions.

HOUSE BILL NO. 1166

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

Testimony

Corey Kost, Vice Chair

**NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS
BOARD**

March 12, 2021

Mr. Chairman, members of the committee, my name is Corey Kost and I am vice-chair of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I am appearing on behalf of the Board to request that the Appraiser Board be exempt from the application of this Bill. While the Board supports the Bill's intent, its application to the Appraiser Board is problematic.

The Appraiser Board is unique in that the Board's appraiser and appraiser management company programs are monitored at the federal level by the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC). Statutes and rules that are consistent with ASC requirements for compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) as amended by the Dodd-Frank Act must be in place or the State's programs will be non-compliant. If the ASC derecognizes a state's appraiser regulatory program, all licensed appraisers from that state would then be prohibited from performing appraisals in conjunction with federally related transactions (FRT). Further, entities such as Fannie Mae link their appraiser requirements to Title XI, requiring lenders to use appraisers that are licensed in accordance with its provisions. Appraisers in a derecognized state would then also not qualify to perform appraisals for Fannie Mae, a leading source of mortgage financing. Therefore, many loans requiring appraisals could not be made, upsetting our financial system's ability to efficiently operate.

As currently written, the Board has concerns that complying with the language in HB 1166 would jeopardize the appraiser program's compliance with the federal law, as promulgated by the ASC. Specifically, 43-51-11.1 1 a and 43-51-12.1 2 a require the Board to issue a license to a military spouse or foreign practitioner who is a state resident with experience in two of the four years preceding the date of application. The ASC's attorney advised the Board that simply demonstrating competency as an appraiser for two years is incompatible with their Criteria as there is no substitute for experience as defined by the Criteria. The Appraiser Board already has a reciprocal license statute (NDCC 43-23.3-04.1) that is consistent with ASC requirements from which we cannot deviate while maintaining compliance. In North Dakota, applying through reciprocity is a simple process open to either a resident or non-resident licensed in another state. The current appraiser statute then already meets and even exceeds the goals of this Bill.

In closing, the Appraiser Board requests exemption from this Bill to assure North Dakota's appraiser program maintains its federal compliance so our state's financial system continues to function as intended. Proposed amendments to the Bill are included in the written testimony. That concludes my testimony and I would stand for any questions.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1166

Page 1, line 4, after the semicolon add “to amend and reenact subsection 6 of section 43-51-11.1 and subsection 2 of section 43-51-11.2, relating to occupational licensing of military spouses;”

Page 3, lines 21-22, remove “North Dakota real estate appraiser qualifications and ethics board.”

Page 4, lines 4-5, remove “North Dakota real estate appraiser qualifications and ethics board.”

Page 4, line 5, insert:

“SECTION 4. AMENDMENT. Subsection 6 of section 43-51-11.1 is amended and reenacted as follows:

6. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, ~~North Dakota real estate appraiser qualifications and ethics board~~, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

SECTION 5. AMENDMENT. Subsection 2 of section 43-51-11.2 is amended and reenacted as follows:

2. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, ~~North Dakota real estate appraiser qualifications and ethics board~~, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.”

Renumber accordingly

HOUSE BILL NO. 1166
SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
Testimony of Mandy Harlow
Executive Director of the North Dakota State Board of Accountancy

The North Dakota State Board of Accountancy is proposing an amendment which would exempt the Board from the language in House Bill No. 1166. North Dakota Century (N.D.C.C.) chapter 43-02.2, which governs the practice of accountancy in the State of North Dakota, already allows for licensure mobility based on substantial equivalency. As of today, all fifty-five of the United States CPA jurisdictions are considered substantially equivalent.

Under N.D.C.C. ch. 43-02.2, a CPA who is licensed and in good standing in another state that moves to North Dakota can apply for licensure under the Reciprocal/Substantial Equivalent application process. Once the Board has received and approved all the application material, the Board of Accountancy issues the CPA a license to practice in North Dakota.

Licensure by reciprocity is an expedited process that allows the Board to quickly issue a license to applicants who are licensed and in good standing in another state. As a result, the Board of Accountancy is asking for an exemption from the language in House Bill No. 1166 because state law already allows for a similar expedited process.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1166

Page 3, line 20, remove "state board of accountancy,"

Page 4, line 3, remove "state board of accountancy,"

Testimony for HB 1166
Senate Government and Veterans Affairs
Bill Kalanek
North Dakota CPA Society

Good Morning Chairman Vedaa and members of the Senate GVA committee. My name is Bill Kalanek and I'm here today on behalf of the ND CPA Society and stand in opposition to House Bill 1166 as currently written.

The Society appreciates the rationale behind the legislation but questions the necessity considering the ND Board of Accountancy has a well-established process for expedited licensing of CPAs who wish to practice in our state. With completion of the application process the board office can issue a license in a matter of a few days. The proposed changes could serve to only delay a process that the board has refined to be exceedingly efficient in comparison to some other licensed professions.

I would ask that the committee give serious consideration to the amendment offered by the ND State Board of Accountancy and allow the board to continue serving the public through an already well-established process for expedited licensing.

Thank you.



State of North Dakota
Doug Burgum, Governor

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STATE BOARD OF PHARMACY

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Mark J. Hardy, PharmD, R.Ph.
Executive Director

House Bill No 1166 – Licensure of Foreign Practitioners
Senate Government and Veterans Affairs – JW216
9:30 AM - Friday – March 12, 2021

Chairman Vedaa, members of the Senate Government and Veterans Affairs, for the record I am Mark J. Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy.

I appreciate the opportunity to discuss with you our concerns on House Bill 1166 today.

The Board of Pharmacy is very concerned with the language in this bill mandating Boards to issue provisional licenses to practice without assuring competencies are met and there is no disciplinary action to be considered.

One large issue with this approach is we would delegate licensing decisions to that of another state. In the case of our profession, we could have a pharmacist who had disciplinary actions in another state pending, which we would have no awareness of, potentially getting a "provisional" license to practice in our state. It sets a dangerous precedent to trust another state's decisions when it is North Dakota citizens that are at risk.

I think the Committee would be wise to examine a study commissioned by the Department of Commerce during the interim indicating the efficiency in which Boards operate with a median of 7 days to issuance of licenses in the state.

The Board of Pharmacy has safeguards in place to ensure the individuals are properly educated and trained to practice pharmacy for the wellbeing and safety of the citizens in North Dakota. The North Dakota Board of Pharmacy currently participates in an electronic license transfer program [eLTLP] through the National Association of Boards of Pharmacy [NABP] in which all 50 states are members and participate. With eLTP a pharmacist licensed by one jurisdiction can request licensure transfer; their licensure is then verified along with any disciplinary actions and electronically sent to the state the professional wishes to become licensed. Understandably, Boards of Pharmacy are more mature with this capability due to the unique aspects of our profession

For our profession, specifically, the legal competency is such a critical aspect of pharmacy practice. There are tremendous variations in controlled substance laws, dispensing and professional responsibility laws across state lines making pharmacists a safeguard between the prescribing practitioner and the patient.

The current license transfer process is very easy to navigate, allowing a candidate to sit for the computerized law test at a testing center of their choice, wherever is most convenient, and the results, on average, are reported within just a couple of days.

The language used in this proposal originated through an attempt to meet Department of Defense standards of military members and military spouses transition between states. This was designed for a very narrow group due to their transient nature of military service and represents a small, low risk group.

The Board of Pharmacy respectfully asks for Do NOT Pass vote on HB 1166. In the alternative, we would ask for an exemption similar to that given the Board of Medicine.

Thank you for listening to my testimony and I will be happy to answer any questions.

**Senate Government and Veterans Affairs Committee
North Dakota Board of Nursing Testimony
HB1166 Relating to Foreign Practitioners**

Chairman Vedaa and members of the committee. I am Dr. Stacey Pfenning, Executive Director (ED) for the North Dakota Board of Nursing (NDBON).

The NDBON remains neutral on HB1166, but requests to be exempted for the following reasons: 1) potential conflict with the nurse licensure compacts; and 2) processes of HB1166 section 5 are already in ND laws and rules, which may contribute to confusion and disruption in licensing nurses in ND.

North Dakota is a member of nurse licensure compacts which are codified in 43-12.4 and 43-12.5. The NDBON carefully monitors legislation that may potentially impact compliance with these compacts, such as HB1166. As one of the 34 member states of the Nurse Licensure Compact (NLC), ND has experienced significant benefits in the portability of nurse workforce since 2004, this has been exceptionally important over the past 12 months. *See Appendix A for NLC map.*

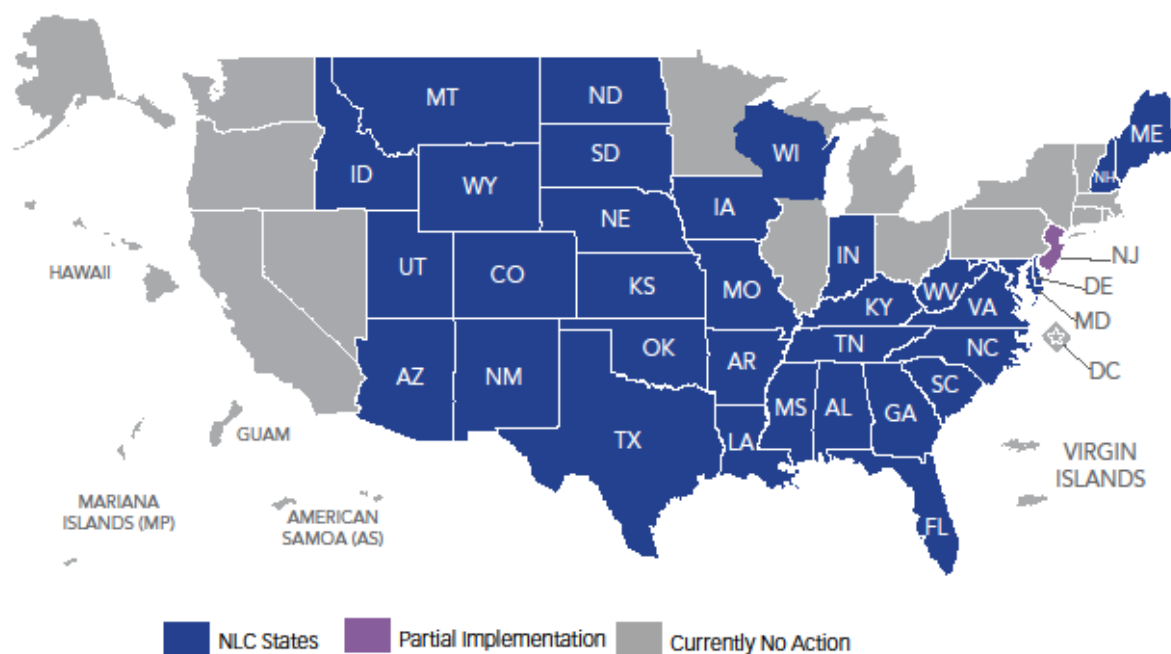
In addition to the nurse licensure compacts, the ND Administrative Code Sections 54-02-06 *License by Endorsement* and 54-05-03.1 *APRN Standards*, allows for a 90-day temporary/provisional license to expedite workforce into practice safely. Applicants typically receive temporary/provisional permits within 5 days of receipt of application. Full licensure is issued within 5 days upon receipt of a complete application (including the CHRC). The current process is efficient and timely and insures a safe nursing workforce.

Thank you for your consideration of the request to exempt the NDBON from HB1166 to ensure the nursing workforce continues in an uninterrupted manner to serve the public safely and effectively.

Dr. Stacey Pfenning DNP APRN FNP FAANP
Executive Director, North Dakota Board of Nursing
Cell: 701-527-6761
spfenning@ndbon.org

Appendix A

NLC States



34 states have enacted the NLC
 33 states have implemented the NLC
 1 state has partially implemented the NLC

*New Jersey is allowing nurses who hold active, unencumbered, multi-state licenses issued by Nurse Licensure Compact member states to practice in New Jersey under their multi-state licenses.



March 12, 2021

Senate Government & Veterans Affairs Committee

HB 1166

Katie Ralston, Director of Workforce Division, ND Department of Commerce

Hello, Chairman Vedaa and members of the Senate and Government & Veteran Affairs Committee. My name is Katie Ralston, and I have served as the director of the workforce division at the North Dakota Department of Commerce since January 2020. In my role, I also have the pleasure of serving as the director of the industry-led Workforce Development Council. I'm here to share some data related to concepts addressed in HB 1166.

In the 66th Legislative Assembly, SB 2306 included that licensing boards and commissions must submit a report to the Department of Commerce by August 2020. We leveraged a subcommittee of the Workforce Development Council made up of legislators and a cross-functional group of representatives of those affected by North Dakota's occupational licensing framework, including the business community and populations with barriers to employment, such as those with criminal backgrounds, displaced workers, and the military. The goal of this workgroup was to remove unnecessary barriers to employment while preserving the health and safety of North Dakota citizens and promoting competition. To accomplish this, the workgroup studied North Dakota's schema for occupational licensing in order to develop a thorough understanding of licensing in our state; discover best practices; engage licensing boards and commissions; and identify the best path for reform. Finally, to fulfill the task of collecting a report from each licensing board required to comply with SB 2306, we contracted with the Council on Licensure, Enforcement and Regulation (CLEAR). Over the course of seven months, this effort revealed the impact of previous legislation, and uncovered unique and effective practices already being utilized by our boards, while also helping us identify opportunities for future refinement.

For example, one of the most interesting findings was the practice of designated authority, where a board appoints one person from the board (30%) or a staff member (61%) to process routine license applications. A combined 91% of our licensing boards engage in this practice, which expedites the license application review process. Although there is a wide range in

application processing timeframes spanning from same-day approval to six months, the average timeframe is 18 days.

We also learned that many of North Dakota's licensing boards are already promoting geographic mobility either through informal policies designed to expedite applications for out-of-state applicants or to recognize out-of-state licenses (41%); formal reciprocity agreements with other states (20%); endorsement provisions (41%); and interstate compacts.

Combining the findings related to expedited application processing and geographic mobility, it's no surprise that of the 58 military spouses who identified themselves as such on their license applications from summer 2019 to June 2020, only one received a provisional license or temporary permit as his/her application could not be processed in 30 days.

My hope is that this brief overview helps you understand what's currently being done by our licensing boards to accommodate applicants. I appreciate the opportunity to share what we've learned throughout the last year and am happy to answer any questions.



Testimony
House Bill 1166
March 12, 2021; 9:30 a.m.
Education Standards and Practice Board
Dr. Rebecca Pitkin

Good morning Chairman Vedaa and members of the Government and Veterans Affairs Committee. My name is Rebecca Pitkin and I am the Executive Director of the Education Standards and Practices Board. I am here today to provide neutral testimony and request clarification on several elements of the bill as well as to provide information about what ESPB currently has in rule regarding this proposed bill.

Our board approved fee waivers for military spouses and the rules for this became effective October 15, 2020. To date, 15 military spouses received licenses with no fees charged, excluding the fee for a BCI/FBI background check. In addition, one individual had their late fee waived as they were deployed when their license expired. Our licensure application was modified to reflect the new rules. Comments on our satisfaction survey evidence the positive response to these rules. ESPB keeps detailed records regarding military spouses and military members licenses.

ESPB currently has two pathways, already in rule, which enables out of state individuals to enter a classroom in an expediated manner. ESPB also has an *Other State Educator License (OSEL)* which is granted to an individual who holds a valid license in another state, has completed a traditional teacher education program and has met their testing requirements. We also have an *Out of State Reciprocal License* for those who graduated from a teacher preparation program



outside of ND and do not hold a teaching license in another state. The applicant is issued a license and has up to 4 years to meet ND standards. Both types of licenses require a background check before working with students, minimizing risk to students, which is a priority of ESPB. Our current license procedures for out of state (foreign) applicants allows even more time for them to complete the requirements; we are able to get them into the classroom right away, after a background check, and even prior to this (with a 40 Day Provisional License) if all parties have given their consent while waiting for the background check to be completed.

It is unclear how ESPB would measure demonstrated “competency” (line 14) and it would certainly be difficult to measure this using teacher evaluations as they are not something ESPB has access to. The bill states an applicant must demonstrate competency for at least two of the four years preceding the date of application, yet ESPB will grant an Out of State license to applications who have just graduated and have not taught yet, but received a license in the state where they graduated. Thus, our current rules have fewer barriers than the one in HB 1166.

ESPB requests additional clarity on “a foreign practitioner who is a resident of the state” and wonders how this is measured or determined.

The Education Standards and Practices Board strives to work across multiple stakeholders to promote and increase quality educators in North Dakota to “do what is best for kids”. We currently have several processes in place to license out of state individuals in an expedient manner, yet in a way that ensures the safety of our North Dakota students.

This concludes my testimony.

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Room JW216, State Capitol

HB 1166
3/26/2021

Relating to occupational licensing of foreign practitioners who are residents of ND; relating to occupational licensing of teachers; provide for a report to the legislative management.

Chair Vedaa called to order at 10:35 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

Discussion Topics:

- Committee Work

Sen K Roers moved a **Do Not Pass**

Sen Meyer seconded

Roll Call Vote: 7 -- YES 0 -- NO -0-ab Motion Passed

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

Sen K Roers will carry the bill

Adjourned at 10:51 AM

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1166, as engrossed: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1166 was placed on the Fourteenth order on the calendar.