

2021 SENATE POLITICAL SUBDIVISIONS

SB 2164

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

SB 2164
1/22/2021

A BILL for an Act to create and enact section 43-51-10.1 of the North Dakota Century Code, relating to occupational rules in cases of emergencies; and to amend and reenact sections 43-51-04 and 43-51-12 of the North Dakota Century Code, relating to occupational licensure in cases of emergencies.

Chairman Burckhard opened the hearing on SB 2164 at 9:44 a.m.

Members present: Burckhard, Anderson, Kannianen, Oban, Heitkamp, Lee, D. Larson

Discussion Topics:

- Emergency rules process
- Foreign practitioner definition
- Licensing decisions
- Length of emergency or disaster

09:45:00 AM SB 2164 - Relating to occupational licensure in cases of emergencies

09:44:55 AM **Senator Burckhard** opens the hearing on SB 2164

09:45:21 AM **Senator Lee** introduced SB 2164

09:48:34 AM **Mark Hardy** - Executive Director- State Board of Pharmacy - in favor #2191

10:02:24 AM **Senator Heitkamp** moves DO PASS, no second

10:24:50 AM **Senator Burckhard** closed hearing on SB 2164.

10:25:21 AM Committee Discussion on SB 2164 language

10:31:00 AM **Senator Larson** moves to ADOPT AMENDMENT LC 21.0326.01001

10:31:39 AM **Senator Lee** seconded the motion

10:31:40 AM Roll Call Vote

10:31:47 AM Motion passed 7-0-0

10:32:06 AM **Senator Oban** moves DO PASS
AS AMENDED

10:32:12 AM **Senator Kannianen** seconded

10:32:33 AM Roll Call Vote

10:32:40 AM motion passed 7-0-0

10:33:07 AM **Senator Anderson** will carry

10:33:21 AM Meeting adjourned

Patricia Lahr, Committee Clerk

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	y

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

January 22, 2021

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1/22
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PROPOSED AMENDMENTS TO SENATE BILL NO. 2164

Page 2, line 5, remove "through July thirty-first of the next occurring odd-numbered year, or if that"

Page 2, replace lines 6 through 8 with "until thirty days after the end of the disaster or emergency declaration."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2164: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2164 was placed on the Sixth order on the calendar.

Page 2, line 5, remove "through July thirty-first of the next occurring odd-numbered year, or if that"

Page 2, replace lines 6 through 8 with "until thirty days after the end of the disaster or emergency declaration."

Renumber accordingly



State of North Dakota
Doug Burgum, Governor

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

Senate Bill No 2164 – Occupational Licensure in Case of Emergencies

Senate Political Subdivisions Committee – Sakakawea Room

9:45 AM - Friday – January 22nd, 2021

Chairman Burckhard, members of the Senate Political Subdivisions 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 be here to speak to you today about Senate Bill 2164 and offer our support of the provisions in this bill.

I believe the goal of this Bill is to allow licensing Boards to better respond to declared emergencies in the State of North Dakota. Clearly, this is a response to the lessons learned during the COVID pandemic to bolster areas in the Century Code which may need clarity to allow Licensing Boards to address and be nimble on issues related to professional practice.

As the pandemic came into fruition, there was a clear fear that there would be a shortage of health care professionals in the State of North Dakota to service the citizens. The legal decision was made that the pandemic did not represent a “disaster”, thus the provision in this Chapter enacted by the Legislature would not be allowed to be utilized by the various licensing Boards. Therefore, an Executive Order 2020-05 allowed the Department of Health to grant emergency licenses without the input or review of the professional Boards. The Department of Health has been very good about working with the Board of Pharmacy, in a few licensee cases, with individuals that were of particular concern.

The Board of Pharmacy, through the National Association of Boards of Pharmacy [NABP] had an emergency passport program which would have vet the licenses of the individuals to determine if the individual met the criteria of professional practice and attempt to eliminate those with disciplinary issues who could attempt to use the disaster to their own advantage. However, we were unable to use it based on the Executive Order and the granting of licensing power to the Department of Health.

We do approve of the provisions in Section 2 of the bill which allows the Board to utilize emergency rules during declared emergencies and disasters, to adopt standards specific to the pandemic for the profession and their practice, versus the alternative arrangement of having to look to advocate for Executive Orders to address barriers in care due to the precise emergency and variants in care due to the disaster. Having an expiration date on these rules is extremely important to ensure accountability.

As I previously said, the Board of Pharmacy supports Senate Bill 2164 and the provisions it contains to allow our Pharmacists and Pharmacies to - “Take Care of the Patient” as our citizens have come to expect.

If you have any questions, I would be happy to answer them.

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2164

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2164
3/22/2021

Occupational licensure in case of emergencies.

(9:20) Chairman Lefor called the hearing to order.

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

Discussion Topics:

- Declared emergencies for board licensing of professionals

Mark Hardy~PharmD Executive Director-ND State Board of Pharmacy.
Attachment #10154.

Chairman Lefor closed the hearing

Vice Chairman Keiser moved the amendment 21.0326.02001 to allow until emergency ended, longer than 60 days.

Rep Adams second.

Voice vote Motion carried.

Rep Schauer moved a Do Pass as Amended.

Rep Kasper second.

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

Vote roll call taken Motion carried 14-0-0 & Rep Schauer is the carrier.

Additional written testimony: Attachment #10180.

(9:33) End time.

Ellen LeTang, Committee Clerk

21.0326.02001
Title.03000

Adopted by the House Industry, Business and
Labor Committee

March 22, 2021

DA 3/22/21
1 of 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2164

Page 1, line 12, overstrike "for a period of time not to exceed sixty consecutive days in a
calendar year and"

Page 1, line 13, overstrike "are provided"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2164, as engrossed: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2164 was placed on the Sixth order on the calendar.

Page 1, line 12, overstrike "for a period of time not to exceed sixty consecutive days in a calendar year and"

Page 1, line 13, overstrike "are provided"

Renumber accordingly



10154

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

Senate Bill No 2164 – Occupational Licensure in Case of Emergencies

House Industry, Business and Labor Committee – JW327C

9:00 AM - Monday – March 22nd, 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 be here to speak to you today about Senate Bill 2164 and offer our support of the provisions in this bill.

I believe the goal of this Bill is to allow licensing Boards to better respond to declared emergencies in the State of North Dakota. Clearly, this is a response to the lessons learned during the COVID pandemic to bolster areas in the Century Code which may need clarity to allow Licensing Boards to address and be nimble on issues related to professional practice.

As the pandemic came into fruition, there was a clear fear that there would be a shortage of health care professionals in the State of North Dakota to service the citizens. The legal decision was made that the pandemic did not represent a “disaster”, thus the provision in this Chapter enacted by the Legislature would not be allowed to be utilized by the various licensing Boards. Therefore, an Executive Order 2020-05 allowed the Department of Health to grant emergency licenses without the input or review of the professional Boards. The Department of Health has been very good about working with the Board of Pharmacy, in a few licensee cases, with individuals that were of particular concern.

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2021 SB 2164
House Industry, Business and Labor Committee
Representative Mike Lefor, Chairman
March 22, 2021

Chairman Lefor and members of the House Industry, Business and Labor Committee, I am Melissa Hauer, General Counsel of the North Dakota Hospital Association (NDHA). I testify in support of Engrossed Senate Bill 2164 and ask that you give this bill a **Do Pass** recommendation.

NDHA urges you to support the bill because it will provide an avenue to license professionals more quickly, such as physicians, nurses, respiratory therapists, and other health care providers, not only when there is a disaster, but also when there is an emergency.

We saw how important it was for the health care system to be able to respond quickly during the COVID-19 pandemic. As the disease spread, more patients needed care and yet hospital staff was also becoming sick or had to quarantine because they had close contact with someone who was infected. It was a time of great uncertainty and there was a great deal of effort and cost expended by hospitals to make sure there was adequate staff to take care of patients. NDHA worked with several professional licensing boards to do what we could to speed licensing of scarce health care professionals, such as re-licensing retired nurses, during that time. We are grateful to those Boards for working with us and we appreciated that some had the ability to adapt to the situation under existing law and administrative rules. Some were able, for example, to issue temporary or emergency licenses that required an applicant to undergo some sort of regulatory review, but on a shortened timeline to help them get to work as quickly as possible.

This bill would give additional flexibility to professional licensing boards to react quickly in an emergency or a disaster, such as giving them the ability to adopt temporary emergency rules to

help abate an emergency or disaster that threatens the health, safety, or welfare of the public. When an unprecedented crisis happens, like COVID-19, it requires swift action on many issues, including the process for licensing essential workers. Temporary suspension of occupational licensing laws and granting emergency rulemaking power is a beneficial approach to take to help manage an emergency or disaster.

For these reasons, NDHA supports the bill and asks that you give it a Do Pass recommendation. Thank you.

Respectfully Submitted,

Melissa Hauer, General Counsel
North Dakota Hospital Association