

2023 SENATE WORKFORCE DEVELOPMENT

SB 2337

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

SB 2337
1/26/2023

Relating to services provided to occupational and professional boards and relating to occupational and professional board financial and information technology requirements.
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3:48 PM **Chairman Wobbema** called the hearing to order.
Senators Wobbema, Axtman, Elkin, Larson, Sickler, Piepkorn were present.

Discussion Topics:

- Audit requirements

3:49 PM **Senator Lee** introduced **SB 2337** and recommended a **DO NOT PASS**

3:53 PM **Senator Sickler** moved **DO NOT PASS**.

3:53 PM **Senator D. Larson** seconded.

3:54 PM **Roll call vote.**

Senators	Vote
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	AB
Senator Diane Larson	Y
Senator Merrill Piepkorn	Y
Senator Jonathan Sickler	Y

Motion Passed. 5-0-1

Senator Piepkorn carries SB 2337

3:55 PM **Chairman Wobbema** closed the hearing.

Additional written testimony:

Stacey Pfenning, Executive Director, North Dakota Board of Nursing, in opposition #16674

Dr. Kevin Buettner, President, North Dakota Board of Nursing, in opposition #16719
Rebecca Pitkin, Executive Director, Education Standards and Practices Board, in opposition #16840.

Kyle Martin, Associate Director for Operations, North Dakota Board of Nursing, in opposition #16893.

Sandra DePountis, Executive Director, North Dakota Board of Medicine, in opposition #16899.

Sherre Sattler, Executive Director, North Dakota CPA Society, in opposition #16911

Mark Hardy, PharmD, Executive Director, North Dakota State Board of Pharmacy, in opposition #17094

James Schmidt, Executive Director, North Dakota State Electrical Board, in opposition #17124

Sherri Miller, Executive Director, North Dakota Nursing Association, in opposition #17130

Bill Kalanek, APT Inc for the North Dakota CPA Society, North Dakota Association of Nurse Anesthetists, and the North Dakota Chiropractic Association, in opposition #17150

Patrick Kautzman, President, North Dakota State Board of Accountancy, in opposition #17157

Patricia Lahr, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2337: Workforce Development Committee (Sen. Wobbema, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2337 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

TESTIMONY

SB 2337

SB 2337
Senate Workforce Development Committee
Testimony of
ND Board of Nursing

Chairman Wobbema and members of the Committee. I am Dr. Stacey Pfenning, Executive Director of the North Dakota Board of Nursing (“Board”).

I am here to provide testimony opposing **SB 2337** as this bill would greatly disrupt and impede nurse licensure and in turn negatively impact the already critical nursing workforce in ND.

The Board was established in 1915 and codified in the Nurse Practices Act (N.D.C.C. 43-12.1) and Administrative Code Title 54 which contains six articles with over thirty-five chapters. As an independent state agency, the Board does not utilize state appropriations but functions within the nurse licensure fee structure set forth in the Administrative Code. These fees currently align with other nurse licensure fees across the nation.

The Board employs a team of eleven highly efficient administrative personnel to conduct daily operations and core functions. This team includes a unique blend of professional nurses and skilled nurse licensing specialists with over 200 years of collective experience in nursing, licensing, and regulation. These experts ensure timely and proper processing of complex license applications and manage highly confidential and complicated documents including Criminal History Records in accordance with FBI mandates.

Operations of the Board occur within four divisions which comprise of licensure/registration, education, compliance, and practice for all Licensed Practice Nurses, Registered Nurses, Advanced Practice Registered Nurses, and Unlicensed Assistive Persons and technicians. The Board utilizes real-time technology to provide daily processing of applications. Currently there are over 21,000 active licensees and registrants with over 77,000 in the database.

The Board's enduring legacy of innovation began over one hundred years ago and continues to define the important work being done. With an eye toward public protection and right touch regulation, the Board continues to be a leader in regulatory excellence making significant and lasting contributions to nursing.

The changes proposed in SB 2337 would disrupt processes across all four divisions of the Board, potentially contributing to delays in licensure and regulatory actions which could be a direct threat to patient safety and patient care in ND. Therefore, **the ND Board of Nursing requests to be exempt or removed from this bill.**

Thank you for the opportunity to share the Board's concerns. At this time, I would like to ask Kyle Martin, the Board's Associate Director for Operations, to complete this testimony.

Dr. Stacey Pfenning DNP APRN FNP FAANP
Executive Director, NDBON
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SB 2337
Senate Workforce Development Committee
Testimony of
ND Board of Nursing

(Committee members: Sen. Michael Wobbema, Chairman, Sen. Michelle Axtman, Vice Chairwoman, Sen. Diane Larson, Sen. Merrill Piepkorn, Sen. Jonathan Sickler.)

Bill introduced by **Sen. Judy Lee**, (Chair Human Services Committee), **Sen. Randy Burckhard** (Member Appropriations Committee), **Sen. Kristin Roers** (Chair State and Local Government Committee), **Rep. Cynthia Schreiber-Beck** (Vice Chair Education Committee), **Rep. Steve Swiontek** (Vice Chair Appropriations- Education & Environment Div) and **Rep. Robin Weisz** (Chair Human Services Committee)

SB 2337
Senate Workforce Development Committee
Testimony of
Kevin Buettner, PhD, APRN, CRNA, FAANA

Chairman Wobbema and members of the Committee. I am Dr. Kevin Buettner, APRN Board Member and current President of the North Dakota Board of Nursing.

As the current President of the North Dakota Board of Nursing (NDBON), I am providing this testimony opposing SB 2337, which is a bill relating to services provided to occupational and professional boards and relating to occupational and professional board financial and information technology requirements.

The mission of the NDBON is to assure citizens in North Dakota quality nursing care through regulation of standards for nursing education, licensure, and practice. The NDBON, boasting an innovative regulatory track record during its 107-year history, has an integral role in healthcare delivery in our state. Our core licensing operations are supported by a highly efficient administrative support team that consists of a unique combination of professional nurses and skilled nurse licensure specialists to ensure timely and proper processing of complex license applications and manage highly confidential and complicated documents.

It is critical that the NDBON remains nimble and adaptable across our four divisions: licensure/regulation, education, compliance, and practice. I believe that the changes proposed in SB 2337 would greatly disrupt and impede nurse licensure in our state. This in turn will negatively impact the already critical nursing workforce in our state and ultimately could threaten patient safety if we are unable to keep nurses at the bedside providing healthcare for the citizens of our state. **Therefore, I am requesting that the NDBON be exempt or removed from this bill.**

Thank you for your time and attention. I appreciate the opportunity to share my significant concerns about the changes proposed in SB 2337.

Kevin Buettner, PhD, APRN, CRNA, FAANA
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Testimony SB 2337
Senate Workforce Development Committee
January 26, 2023; 3:30 P.M.
Education Standards and Practice Board
Dr. Rebecca Pitkin

Good afternoon, Chairman Wobbema, and members of the Committee. My name is Rebecca Pitkin, and I am the Executive Director of the Education Standards and Practices Board (ESPB) and I am here to provide details regarding the scope of our work.

North Dakota is one of the 22 states that has moved the profession forward by authorizing an independent board of ten educators, administrators, school board members, and teacher educators. The board is appointed by the Governor to two 3-year terms and meets monthly.

In 1995, ESPB became an independent board with the responsibility of teacher licensure, teacher education program approval, professional development, and professional practices. As an independent board it carries out its duties funded by the licensure fees of the educators in North Dakota.

Given the enormous responsibility of licensing individuals who work with the children in our state, our board operates the following non-negotiables:

1. We do what is best for students
2. We do not make decisions based solely on money
3. We work with our stakeholders which include the North Dakota Council of Educational Leaders, School Board's Association, ND United, the teacher's union, the Department of Public Instruction, and serve all licensed individuals to include teachers, principals, and superintendents.

Licensing

ESPB issues approximately 12,000 licenses each year and there are approximately 18,000 active licenses; there are six types of initial licenses and eight different types for renewal, depending on their current positions and transcripts which are reviewed by staff. Licenses are renewed every two or five years. Our ND Teach system houses all license applications and enables us to interact with the Department of Public Instruction as they provide specific credentials. Licenses are issued electronically, and we are currently undergoing a one hundred and fifty thousand dollar system upgrade in collaboration with DPI to provide additional document storage and additional ease of access for applicants. Our license processing time is days, and sometimes hours once we receive needed materials and an individual's BCI/FBI background check. Our staff, several of whom were teachers and administrators themselves and understand the workings of teacher qualifications, work closely with schools to ensure all employees are appropriately licensed. We have recently added procedures to assist the transition of foreign applicants and removed fees for military spouses before it was required by law-my experience of holding licenses in eight states made ease of transition a priority. To ensure the safety of students ESPB requires a BCI/FBI background check for all applicants and upon renewal all applicants are required to self-report any offenses, their names are checked in a National Clearinghouse which houses all sanctions against a teacher in all 50 jurisdictions. We follow the FBI/BCI requirements and all board members are trained in them. This is a critical part of our process and a commitment to our state and its children. We have made recent updates to our application to clarify what applicants must reveal about work history, offenses, investigations, and denials. Our staff reviews applications question by question and may require additional information; our board reviews application if there are any reds flags. Our staff has the expertise to do this as our

most recent hire (a staff addition) has been there six years and the others eighteen, eleven, and ten; I am the second executive director since 1995.

Program Approval

There are eleven teacher education programs in North Dakota and in conjunction with a national accreditation agency (Council for the Accreditation of Educator Preparation), ESPB conducts program evaluation and approval with site visits every seven years. ESPB requires annual reports from each institution and works closely with higher education faculty to implement statute and develop standards. Our office also provides ethics training for student teachers using the Model Code of Educators Ethics developed by the National Association of State Directors of Teacher Education and Certification.

Applicant Satisfaction

It is no secret we are experiencing a teacher workforce shortage and ESPB works with our stakeholders to find solutions to the shortage in a way that does not lessen requirements or quality for our North Dakota children. ESPB strives to assist and support our K-12 teachers and answers over 100 phone calls each day. In addition, we receive approximately 12,000 emails in our general accounts in addition to the ones that come to our five employee emails.

ESPB prides itself on customer relations and working with our licensees on a variety of challenges they many have. Customer service is a value, and we desire to keep the teachers we have and to promote our profession. Our satisfaction survey, available after every interaction and collected the past 6 years is 99% positive in all areas to include responsiveness of staff, timeliness, availability, courtesy, knowledge, ease of obtaining information. Our board reviews this data annually and changes are made as needed to increase efficiency. We often hear from out

of state applicants that we “actually answer the phone” and have structured our office hours for before and after school and during lunch.

Professional Practices

Our board receives approximately 100 complaints each year. Our office follows the process of serving a copy of the complaint and any documentations to the individual and the board reviews the complaint and response to determine if the individual’s license should be subject to action by the board. Our office also closely monitors the national pulse regarding the issue of “grooming” either electronically or in person and recently wrote administrative rules to broaden this definition to reflect the trend of cases seen in North Dakota and across the nation. Engagement in national groups assists us in implementing best practices and developing policies that protect children and teachers. All case information is password protected on a secure site, available only to board members.

Professional Development

ESPB’s final area of responsibility is teacher mentoring. The Teacher Support System (TSS), which receives a flow through grant from the Department of Public Instruction and the Governor’s Office falls under the ESPB office responsibilities although directed by its own staff. The TSS offered mentoring to all first year teachers this past year and also trains instructional coaches to support teachers in their work.

Office

The landscape of teaching is ever changing and the issues and trends we consider, adopt, research, and are asked to be involved in are endless. Our staff attends training, participates in

book studies, and collaborates frequently to ensure their skill level is increasing. Our staff is dedicated and caring, an element much needed in our culture. We work as a team and know our work matters if it is only listening to a teacher who is frustrated and needs someone to listen. Teachers need an agency such as ESPB whose specificity of task matches their needs. The ESPB Board requests a do not pass on SB 2337. This ends my testimony, and I will answer any questions.

SB 2337
Senate Workforce Development Committee
Testimony of
ND Board of Nursing

Members of the Senate Workforce Committee. My name is Kyle Martin, Associate Director for Operations at the NDBON. This testimony has been prepared in opposition to SB 2337. Please consider the following key operational considerations and the need for the Board of Nursing to continue using its own designated administrative support team and technology to maintain core operations to ensure safe and timely licensing of nursing professionals across North Dakota:

- This legislative session, the NDBON has proposed a framework for an Alternative to Discipline Program for nurses. However, the proposed program structure would not be possible under a uniform board model and would require outsourcing, at an estimated cost of \$250,000 annually.
- The Board issues 90-day temporary permits that can be issued within one to two business days (an exception, not norm in the United States). There are currently 118 nurses working on temporary permits in the state. Full licensure can occur within one to two days of receiving all licensure requirements.
- The licensure process can be complex, but the Board's highly trained licensing specialists work closely with applicants to assure timely completion of applications. The team is trained to review applications and their supporting documents to safeguard against fraud and to provide expedited, accurate processing. Each application is reviewed by a director and licensing specialists throughout the process.
- Training a new NDBON team member to become competent in licensing takes on average 12-18 months.
- Between October 2022 through January 2023, the Board received 21,445 emails and notifications related to applications and licensure.
- In FY 21-22, the Board licensing team processed 9,454 renewal applications, 1,964 initial (new) LPN/RN licenses, 399 initial APRN licenses, 243 initial UAP applications, and completed 2,828 criminal history record checks.
- The Board utilizes a unique software solution since 2014 to power its website and database to meet its complex licensure needs. To date, the database houses 77,032 unique records which are shared with NCSBN's national database for cross-data and licensure collaboration. This platform has been tailored with unique algorithms to prompt users with specific questions based on their unique licensing circumstances to determine licensure eligibility.

SB 2337
Senate Workforce Development Committee
Testimony of
ND Board of Nursing

- The North Dakota Board of Nursing utilizes private-sector vendors to provide information technology, network security and telecommunication services. Previously, the Board utilized NDIT for telecommunication support. In one outage instance, our office was told by NDIT the problem could not be worked on for 14 days. Our current vendors can provide outage service in less than one-hour.

Other important considerations related to the important work done by the NDBON locally and nationally:

- The NDBON has repeatedly demonstrated leadership and commitment to public safety, including active involvement and collaborations with state and national initiatives including, the ND tri-regulator collaborative with the Board of Medicine and Board of Pharmacy, the Prescription Drug Monitoring Program Advisory Council, the Governors Workforce Shortage Taskforce and Opioid State of Emergency, the ND Hospital Association Workforce taskforce.
- The NDBON was honored to receive the National Council of State Boards of Nursing (NCSBN) Regulatory Achievement Award in both 2013 and 2022. The designation is awarded annually to one of 57 boards nationally for significant and outstanding contributions in nursing regulation.
- The Board participates in the National Council for State Boards of Nursing (NCSBN) and is a member of the 39 state Nurse Licensure Compact (NLC). The NLC allows nurses who hold a multistate license to practice in other compact states. NDBON staff are trained on how/when to issue compact licenses and how to use NCSBN's cross-collaborative online tools that play a critical role in day-to-day licensing.
- The compliance division investigates potential violation reports (PVRs) or complaints against nurses to assure public safety. The average time from complaint to resolution is only 40-43 days. The division received 229 PVRs in FY 21-22 and typically has 25-35 open investigations at any time.
- The practice division works closely with organizations and individuals to assure that nurses are practicing within their scope of practice, provides education and also works with nurses who self-report criminal offenses, substance use disorders, and mental health or physical disorders to assure they are completing court ordered or healthcare professional requirements.

WORKFORCE DEVELOPMENT COMMITTEE
JANUARY 26, 2023

TESTIMONY OF
NORTH DAKOTA BOARD OF MEDICINE
SENATE BILL NO. 2337

Chair Wobbema, members of the Committee. I'm Sandra DePountis, Executive Director of the North Dakota Board of Medicine, appearing on behalf of the Board in opposition to Senate Bill 2337.

While the Board appreciates that there may be licensing Boards who struggle with administrative support services that can provide an efficient and properly functioning support staff, this is not the case for the Board of Medicine. The Board already enjoys the support of an office staff that efficiently processes more than a thousand of these complex applications associated with medical licensure each year, investigates hundreds of complaints each year, appropriately handles sensitive and highly confidential documents, and verifies that the Board is implementing best practices consistent with national standards. The following testimony provides an overview of the administrative functions of the Board of Medicine that outline the need for its own designated office staff.

License Application

It is vital that the physicians and physician assistants licensed in North Dakota are properly vetted to ensure safe health care services are being provided to our citizens. This includes more of an in-depth review and licensure process than many other licenses. Medical boards around the nation employ "credentialing specialists" that are trained to process these applications and can spot inconsistencies and other red

flags that raise concern. It involves more than just receiving a document and checking it off a list of things that need to be submitted, but instead requires a thorough examination of the information/document with knowledge of what it should contain and if something is “off” to follow up with the appropriate authority. The individuals processing these applications need to know what they are looking for which comes with training and experience with working with these applications.

Unfortunately, the North Dakota Board of Medicine, along with other medical boards throughout the nation, are dealing with an uptick in applicants failing to be fully forthright and truthful in their applications, and an era of utilizing fraudulent documentation readily available online. The Board has tried to address this by updating its application with multiple areas, in bold, underlying, etc. letting applicants know that they are responsible for providing truthful and accurate information and that failure to do so will result in delays in licensure, an interview with the board, and possible denial of an application. Despite these warnings, we continually see inaccuracies and failure to fully disclose in applications, which are only caught thanks to the training and expertise of the Board's staff.

Some examples, the Board requires an applicant to list on their application where they have worked within the last ten years. The Board will follow up and contact employers from the last three years for verification on dates of employment and to ask whether any concerns arose during the employment. In a recent example, an applicant said he worked at employment X for the dates Y through Z. In reaching out to the employer, the dates did not match up with the application. In follow up, the Board staff asked the applicant about the discrepancy and if they had other employment during that

time, only to learn that the applicant had such employment but was fired due to errant conduct. It was only with the staff verification that this incident came to light. There are numerous other examples, some even involving failure to disclose arrests/convictions that the applicant believed were removed from their record and therefore did not need to disclose. Since our office staff reviews these documents every day, they are able to spot these inconsistencies or other “red flags.” Without this knowledge and experience, things would get missed and delays would result in issuing licenses.

This past biennium, the office did a thorough review of its policies, procedures, laws, and rules to identify any inefficient processes and came forth with recommendations to the Board to ensure a more streamlined application process. The Board approved numerous updates brought forth by the office including a new electronic format, updates to the IT and database systems, removal of some requirements that were outdated, and detailed policies on when a license requires further evaluation/examination. It is only with a staff that works exclusively in processing these applications that such trends and proposed changes are spotted, tracked, and brought forth to be addressed by the Board.

Currently, licenses are processed efficiently and expeditiously. The office staff has built important relationships with various constituents. We listen to and receive information from the associations, firms, hospitals, school, licensees, and applicants. When a call or email comes through, it is timely addressed and answered by individuals with the knowledge to handle the inquiries. The Board chair and executive director, by law, are able to issue provisional licenses in between board meetings. We work well

with the hospitals and firms and ALL request for an expedited license have been accommodated.

It should be noted that medical licensure applications may be accompanied by various sensitive and confidential information. Depending on the applicant and history, medical records may be submitted regarding malpractice cases, substance use disorder records may be submitted regarding fitness to practice, etc. Parameters need to be put in place that the records are appropriately handled and are only reviewed and disclosed to necessary personnel. It is unclear how this could occur, and whether the federal laws would even allow for sending such records to a separate executive branch state agency with an office administering fifty licensing boards versus the licensing board.

Finally, the Board obtains criminal history background checks from BCI/FBI as part of the licensure process – which are highly confidential and cannot be shared except directly to the Board of Medicine. It is a class C felony to release any information of the background check (even to say there is nothing on the background check). In checking with BCI, OMB could not request nor receive the background checks under federal law and N.D.C.C. chap. 12-60. OMB also could not be told anything that is contained in the background check (even to say it is clean). It is therefore unclear how this vital piece of the application process would be received, reviewed, and administered. Would the background checks need to be requested by and sent to a Board member? The office processed over 600 backgrounds last year. That is a lot of backgrounds to be sent off to Board members who are already busy with their profession. The background checks also have to be matched to the application to verify that the applicant properly disclosed all arrests, convictions, etc. If there was not

disclosure, this requires additional follow up with the applicant on why they failed to disclose – and further requirements of getting the necessary support documents (police report, court docket, sentencing report, etc.). This would then need to somehow be reported back to OMB to issue the license without revealing any confidential information. Such a process would be inefficient and delay licensure versus having a designated staff who can process the background checks on behalf of its board.

Disciplinary Process

The Board, on average, receive more than 175 complaints each year. Upon receiving a complaint, an investigation ensues by the office to gather the information necessary for the Board to make an informed decision on whether the licensee is safe to practice or whether disciplinary action should ensue. There is specialized training needed by the individual who conducts these investigations as they can involve highly technical or sensitive areas. How the investigation is conducted, what materials need to be obtained, etc. will depend on the facts of the underlying complaint and therefore requires an individual experienced to perform such investigations. There is also specialized training for sexual abuse allegations cases. This again is not a routine administrative service but requires and relies upon the specialized training and knowledge of the investigator.

The Board of Medicine, along with other boards, also have confidentiality provisions regarding the underlying investigations in disciplinary proceedings. Under these provisions, the Board of Medicine cannot share certain information even with other licensing boards. This therefore raises the question on how these investigations and records would be kept separate if everything is handled through one office.

Other Office Functions

It would be futile to attempt to lay out all the functions performed by the Board of Medicine's office. The world of medicine is ever evolving. The office is responsible for keeping apprised of national trends and standards – performing the necessary research to bring various matters before the Board for its review, so Board members are able to implement best practices and make informed decisions. This could be anything from a new tool available to expedite the licensure process to new national policies on physician burnout with recommendations on how to address mental health in order to keep our physicians practicing safely. To keep on top of such things, the staff attends trainings, seminars, conferences, reviews journals, collaborates with other state medical boards, works with the Medical Association and Physician Assistant Association, etc. Without its own dedicated staff providing such information and support to the Board, the North Dakota Board of Medicine risks its ability to maintain best practices consistent with national standards.

Lease

Another consequence of this bill is in regard to how will this affect the lease the NDBOM is under and bound by. Where will the new office space be for the proposed administrative staff and would this require the Board to break its lease, thus needing to use funds for penalties? What about all the electronic equipment, furniture, etc.?

Information Technology

This past biennium, the Board of Medicine spent a significant amount of time and money to update its IT services. After an email hack, the Board contracted to obtain a Cyber Security Audit and Assessment to identify vulnerabilities in our IT systems. This

report was then shared to our IT vendors to implement safety and security updates. Numerous time and expenses ensued after this audit/assessment – new contracts were negotiated and entered into for updated services, technology, databases, services, etc. This was a considerable amount of time, work, and expense that would be wasted if forced to move to ITD. The Board would not be able to recoup expenses spent and would be left to pay penalty fees for breaking the contracts. It is unclear, although unlikely, whether our current database vendor would allow for his database/software to be transferred to OMB, in which case, the Board would not only have wasted the money put into its specialized database system, but would arguably now be on the line to pay for a new system to be developed by ITD.

In addition, the IT vendors the Board currently use, are wonderful at getting back to us immediately. The Board does not have an IT person on staff, and therefore, if something comes up, it needs to be addressed immediately so our systems are not down, and licensure processes delayed. Our IT staff continually monitors our services. In a recent example, last week there was a power outage affecting the Board's office. Once the power came back on, our IT vendor was on the phone with me within 10 minutes as they were monitoring the IT systems and noting any that did not come back online. There have also been times when something has come up over the weekend or in the evening, and needing to get this up and running in order to process a license. Our IT vendors are available on weekends and evenings to provide help and services to make sure we operate smoothly. The concern is ITD not having the resources or availability to process things immediately to fill this need of the Board.

In summary, in order to continue expediting licenses, appropriately process disciplinary proceedings, and maintain best practices - the Board of Medicine requires its own dedicated, trained office - which is already in place. The Board would therefore request a do not pass on SB 2337. Thank you for your time and attention and I would be happy to answer any questions.



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3100 S Columbia Road Ste 500
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January 25, 2023

Senator Wobbema
 State of North Dakota
 State Capitol
 600 East Boulevard Ave
 Bismarck, ND 58505

Dear Chairman Wobbema and members of the Workforce Development Committee:

On behalf of the North Dakota CPA Society, we appreciate the opportunity to comment on Senate Bill 2249 and Senate Bill 2337 which aim to streamline administrative processes and ensure efficiency within state government. **The North Dakota CPA Society opposes SB 2249 and SB 2337.**

The North Dakota CPA Society is the statewide association of certified public accountants. Established in 1929, the Society has nearly 1,700 members, consisting of CPAs and students planning to become CPAs. Its mission is to inspire, empower and support its members through the promotion, advocacy, connections, and knowledge.

The North Dakota CPA Society supports the mission of the North Dakota State Board of Accountancy (the Board) to protect the public by setting regulatory requirements associated with obtaining a license to practice public accountancy. A critical way the Board accomplishes this is by ensuring that candidates meet the education, examination, and experience requirements for licensure before being granted a license. The Board also renews an individual's license after determining they have completed the required hours of continuing professional education that ensures a high standard of knowledge. Additionally, the Board licenses CPA firms that have met certain requirements including undergoing a peer review for attest services to ensure the firm complies with technical standards and quality control. In conjunction with these protective measures, the Board investigates complaints from the public about the performance, either technical or ethical, of an individual CPA or CPA firm that may result in penalties such as the suspension or revocation of a license or civil penalties.

Nationally, state boards of accountancy have faced a variety of challenges to their operation including reorganization. In December 2010, Washington State considered merging its accountancy board with a larger department, but first sought an independent feasibility study. The study found "no significant reasons to warrant a merger" due to the accountancy board's role "to promote the dependability of financial information and to protect the public interest."¹ This conclusion supported findings contained in a 2008 U.S. Department of Treasury report. The report warned that "a number of state boards are underfunded and lack the wherewithal to incur the cost of investigations leading to enforcement."² The regulation of the practice of public accountancy at the state level is uniquely efficient and procompetitive. At a time when North Dakota is taking steps to create a leaner, more effective government, we urge policymakers to approach the process so as not to diminish the trustworthiness and reliability needed to support the regulation of financial markets. Confidence in professional

¹ See "Merger Report," December 2010, Zwillinger Greek Zwillinger & Knecht, www.cpaboard.wa.gov/Home/Wboa_News/RFP_No1_alert.shtml

² See "ACAP Report," October 2008, U.S. Department of Treasury, www.treasury.gov/about/organizational-structure/offices/Documents/final-report.pdf (see pages VII:7-VII:8 of that report)

financial services positively impacts the economy and is in the public interest. The North Dakota State Board of Accountancy is committed to the protection of the public and its direct accountability to the public should be preserved so both the perception and reality of independent, professional oversight remains.

A few points to consider:

- Centralized boards may work for licensees that have similar requirements and similar public trust exposure. Professional licenses are very different.
- Professional licenses require internal staff who understand the profession at a deeper level than just the license process. There are many moving parts to CPA licensure, and it is important that it is managed with proper oversight and knowledge.
- The biggest item that separates a CPA from other accounting professionals is the ability to provide attest services. With a centralized board, monitoring the regulations of attest (firm registration, peer review, federal oversight, etc) is less likely to happen.
- Anna Durst is the CEO of the Nevada Society of CPAs. The NV Society administers peer review for 6 different states. In her experience, those with a centralized board do not monitor or discipline CPAs/Firms who are failing in their attest services until an outside agency prompts for action. For example, a dedicated Board of Accountancy will proactively monitor the requirements of a CPA who provides audit services to a client. They will remind the CPA that it is time for a peer review. They will follow up if peer review is not performed by the due date. They will monitor a CPA who receives consecutive non-pass peer review reports. They will ask for remediation by the CPA to improve their service quality. All these actions help to ensure that audits can be relied upon by stakeholders and the public. This is a vital component of CPA services and of the public trust of financial reports. Centralized boards rarely perform these actions. They wait until a peer review administrator, a federal agency, or client notifies them of misconduct or poor services. The ability to catch the issues before they become a major failure helps all involved in the process.
- Centralized boards tend to silo the functions where one person/team checks an application for various licenses, one accepts payments, one confirms various compliance issues, etc. However, all functions must coordinate together with regards to a CPA license (as well as other professional licenses) because the requirements are not independent of each other. Failure in one area immediately impacts the other areas.

The North Dakota CPA Society is pleased to assist you and your staff as these bills are considered. Please contact me at ssattler@ndcpas.org should you have any questions.

Sincerely,

Sherre Sattler
Executive Director
North Dakota CPA Society



State of North Dakota
Doug Burgum, Governor

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SB No 2337 – Services Provided to Occupational / Professional Boards
 Senate Workforce Development Committee – Fort Lincoln Room
 3:30 PM - Thursday – January 26, 2023

Chairman Wobbema and Members of the Senate Workforce Development Committee, for the record I am Mark Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy. Thank you for allowing me to testify on Senate Bill 2337 and offer our opposition with the provisions set forward in this legislation.

As we interpret this SB 2337, the Board of Pharmacy would have to utilize administrative services through the North Dakota Office of Management and Budget. We appreciate the intent and understand the belief that some Boards could benefit from administrative services being provided. However, the Board of Pharmacy is not one of them. The scope of the Board of Pharmacy includes scheduling of all Controlled Substances, the licensing of pharmacists, pharmacy technicians, interns, technicians-in-training, pharmacies, wholesale drug distributors, manufacturers, medical device retailers and distributors, veterinary retail facilities, veterinary dispensing technicians, and many more. This list represents over 6,000 licensees and businesses, along with many agencies, law enforcement and others that rely on our office. Given the demands of our licensees and the impacts on the citizens of the State, the Board of Pharmacy has developed and maintained dynamic processes to ensure the provisions of what this legislation is looking to centralize is managed and delivered with effective and efficient processes. The Board of Pharmacy certainly leverages the private market to help with some services which have been tremendously helpful and efficient. The Board would request that we be able to continue to utilize these processes that makes our office nimble and responsive to the public and licensees. I am not aware that the Office of Management and Budget has the expertise or staff to assist at the level at which we would expect to provide the services listed in Section 2. Forcing us to use OMB to provide services would be very disruptive to our licensees and office operations. I do believe it would prove to be disruptive to the workforce for whom we provide services.

Section 3 of this bill asks for coordination on behalf of the Boards by the Office of Management and Budget with various other agencies in the state. This seems to be a duplication of what is currently occurring with most professional Boards. We have a good line of communication to the Attorney General's office through Assistant Attorney Generals, have the ability to reach out to ITD on services and for guidance that would be needed, and have existing relationships with Workforce Safety and Insurance on services they provide.

Section 4 of the bill appears to require Boards to utilize the services of the Information Technology Department. This section is very problematic for the Board of Pharmacy. We have an existing database built for timely processing of applications, renewals, and tracking of unique data needed for our licensees.

We also have database integrations into national systems that facilitate ease of licensure for licensees and provide other services the Board of Pharmacy is called upon to provide. We leverage private market solutions that best fit the Board's unique needs.

Many Boards, including the Board of Pharmacy, leverage and utilize services from ITD and we find that very useful. However, changing all our processes and technology to ITD would be a big disruptor to our licensees and ultimately the workforce in general. Licensing, renewals, website operations, tracking of other unique services the Board of Pharmacy currently provides would all need to be redesigned.

To highlight just one of the many examples to provide you, specific to our Board, is the operation of the Prescription Drug Donation Program, where the public donates prescription medication they wish to donate and the Board maintains the list of drugs available that can safely be dispensed to an individual in need at little to no charge. This public service tool is built within our database from a private company located in Minot, ND called Albertson's Big Picture. This bill would require the Board of Pharmacy to recreate that program through ITD, which would be a very costly and timely endeavor.

The Board of Pharmacy, respectfully, opposes this legislation. This would cause great burden and would prove to have a significant financial impact for the Board and for the portion of businesses, workforce and public we serve.

Perhaps there is a better method to meet the goals of the bill which will not force all Boards into the use of services that they don't need. We would be happy to work with the Committee on amendments or other methods in future bills you will have in front of your committee.

I'd be happy to answer any questions that you may have and thank you for your time.

TESTIMONY IN OPPOSITION TO SB 2337**PRESENTED BY JAMES SCHMIDT****EXECUTIVE DIRECTOR, NORTH DAKOTA STATE ELECTRICAL BOARD**

Chairman Wobbema, Members of the Work Force Development Committee:

I am James Schmidt, Executive Director of the North Dakota State Electrical Board (NDSEB) appearing for the board in opposition to Senate Bill 2337. The board firmly believes this bill would disrupt and delay the licensure for electricians within and those wanting to come into North Dakota. Similar bills have been proposed in past sessions, and have been defeated when the facts of what individual occupational and licensing boards do become fully known.

Since its inception in 1917, the NDSEB has licensed electricians, inspected all electrical installations in the state, conducted and monitored continuing education, and financed its own operations without an appropriation. It has also managed all of the other functions this bill would now place, at least partially, in the responsibility of OMB.

We have heard no complaints about the board's licensure process. The board processes over 1,000 applications for licensure each year which are reviewed and responded to on a weekly schedule. The board also schedules two days each month for licensing examinations.

Our state currently is a member of the National Electrical Reciprocal Alliance (NERA) which has 19 member states. To be a member of this group the state must have certain minimum licensing requirements. The purpose of our membership in this group is to allow ND electricians

to move between states, and allows an extremely streamlined process for electricians seeking to move or practice here. Someone entitled to reciprocity based on holding a license in a NERA state is routinely approved within five days of receipt of their application.

Some states and jurisdictions do not have licensure or have minimal requirements that make them ineligible for immediate reciprocity. The board also has an expedited path to licensure for these individuals. Individuals with experience in such states and jurisdictions are allowed to temporarily practice and take a placement exam which puts them on the path to full licensure. The board strongly believes its licensure process imposes the minimum burden necessary to protect ND citizens from both life safety concerns and financial harm from unqualified electricians.

The board has also taken significant steps to address future workforce development. With the statutory authority provided by the legislature in SB 2056 in 2019, the board initiated a scholarship program which provides North Dakota student apprentices \$500 per semester to assist with books and tools. Since this program began, scholarships have been provided to 1,280 student apprentice electricians, who are the future of ND's electrical trade.

The board also supports and attends "Market Place for Kids" and other events across the state to enlighten elementary and middle school students about the electrical trade. At these events, we assist these students in performing interesting hands-on electrical exercises that hopefully will spark a lifelong interest in the trade.

Finally, the board has always done its own payroll, annual budgeting, providing continuing education and monitoring, submitting required

records/reports to other state agencies as required, and following OMB procurement and records retention rules. The board also works with the information technology department to take care of our data needs. All of this has been done efficiently and effectively to our knowledge, and we do not believe additional agency involvement is necessary or desirable.

The NDSEB is a specialized board overseeing a technical industry. At its core, the board's concern is safeguarding the residents of ND from electrical hazards and financial harm. It is always on the lookout for more efficient means and methods to streamline its procedures, while also maintaining that core function. We therefore urge a do not pass vote on SB 2337 or exempt/remove North Dakota State Electrical Board from this bill.

We thank the Committee for hearing our concerns.



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Testimony in Opposition of SB 2337
Senate Workforce Development Committee

January 26, 2023

Chairman Wobbema and Senate Workforce Committee Members:

Good afternoon. My name is Sherri Miller, and I am the Executive Director for the North Dakota Nurses Association. The NDNA opposes SB 2337.

The NDNA is the only professional organization representing all nurses in North Dakota. Our mission is to advance the nursing profession by promoting the professional development of nurses, fostering high standards of nursing practice, promoting the safety and well-being of nurses in the workplace, and advocating on health care issues affecting nurses and the public.

Right now nursing in North Dakota, as with the nation, is at a critical level, and we would oppose anything to upset the already efficient processes in place at the North Dakota Board of Nursing. We are grateful for the work they do daily to proactively regulate the practice of nursing in our state and license over 21,000 nurses.

We respectfully ask you to “do not pass” SB 2337.

This concludes my testimony.

Thank you,

Sherri Miller BSN, RN
Executive Director
director@ndna.org
North Dakota Nurses Association

SB 2337

January 26, 2023

Senate Workforce Development Committee

Bill Kalanek

APT Inc., ND CPA Society, ND Assoc. of Nurse Anesthetists, ND Chiropractic Association

Good afternoon Chairman Wobbema and members of the Senate Workforce Development committee. My name is Bill Kalanek and I'm before you today representing myself as owner of APT Inc., as well as The ND CPA Society, the ND Assoc. of Nurse Anesthetists and the ND Chiropractic Association. I stand here today in opposition to the bill before for many of the reasons you will hear today but my situation is uniquely different.

The CPAs, Nurse Anesthetists and the Chiropractors I represent in my capacity as lobbyist all oppose this government consolidation of board management under the umbrella of OMB as this bill directs. The associations I represent all feel independent management of regulated professions is the best model for efficient licensing of professionals in their industries. There is no one size fits all when it comes to licensing of different professionals. Education requirements vary greatly, interstate compacts dictate to some professions and not others, criminal history reviews are done differently across professions and continuing education requirements vary dramatically.

SB 2337 takes a simplistic view of the licensing landscape and seeks to throw a blanket over it all in the hope that somehow consolidating it into state government adds efficiency. On behalf of the professions I represent I urge you to give a Do Not Pass recommendation to SB 2337 and allow our efficiently managed state boards to continue to do good work for our licensees.

Now, to shift gears a bit. I am the owner of a small business in Bismarck that employs 5 hard working and dedicated employees. Everyday, they go to work and provide an invaluable service to the state of North Dakota. Those employees are tasked with managing the "board office" for 8 of the States licensed professions. When legislators think I'm out golfing after the session, I'm actually trying to catch up on any items I might have to take care of to help my employees serve the boards that we are contracted to manage.

The 3rd party management my office provides to these boards should demonstrate to you the efficiencies that the private sector can offer as an alternative to state-based options. If this bill were passed and put into effect I would immediately have to consider closing my board management office and send some fantastic people out into the job market to find work elsewhere. The service APT provides allows these boards to share resources and keep expenses down while at the same time offering high-level professional management to boards that would otherwise struggle to maintain and operate an 8 to 5, 40+ hour a week office.

I respectfully request a DO NOT PASS on SB 2337 on behalf of my employees and the licensees they serve.



Board of Accountancy

January 25, 2023

Senator Wobbema
State of North Dakota
State Capitol
600 East Boulevard Ave
Bismark, ND 58505

Dear Chairman Wobbema and members of the Workforce Development Committee:

On behalf of the North Dakota State Board of Accountancy, we appreciate the opportunity to comment on Senate Bill 2337 which aims to streamline administrative processes and ensure efficiency within state government. **The North Dakota State Board of Accountancy opposes SB 2337.**

We are concerned that the administration of CPE monitoring, licensing, peer review, and discipline of current licensees within the State of North Dakota will be undermined by this bill. In coming to a decision in North Dakota, it is important to keep in mind the CPA profession is unique in its accountability to third parties. Because individuals, businesses, and governments (federal, state and local) all depend upon rigorous and reliable audited financial information in order to make sound investing, financial planning, and lending decisions, in compliance with applicable federal state and local laws – and because the body of knowledge used by CPAs is so highly technical and comprehensive, as are the accountancy statutes and regulations that govern them – enforcement cases require Board staff and members who possess a significant level of education, up-to-date professional knowledge, and experience. The impartial, professional, and technical knowledge that the North Dakota State Board of Accountancy members have contributed to the protection of the citizens of North Dakota could not be afforded through any other combined agency.

The North Dakota State Board of Accountancy is pleased to assist you and your staff as this bill is considered. Please contact me if you have any questions.

Patrick Kautzman
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