2001 TESTIMONY

SB 2115

Prepared by North Dakota State Board of Medical Examiners
and North Dakota State Board of Dental Examiners

PROPOSED AMENDMENTS TO SB 2115

Page 1, line 12, overstrike the second "and"

Page 1, line 13, replace "." with ";"

Page 1, after line 13, insert:

"e. State board of medical examiners; and

f. State board of dental examiners."

Renumber accordingly

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

January 29, 2001

TO: Senator Lee and Members of the Senate Human Services Committee

FR: Al Jaeger, Secretary of State (presented by Clara Jenkins, Director, Business Division)

RE: SB 2115 Regulated Occupations or Professions

It is not very often that the Secretary of State's office appears before a Human Services Committee. However, this bill (as introduced) adversely impacts the agency.

Therefore, along with this testimony, the Secretary of State's office is offering the attached amendments for the committee's consideration. If adopted, the amendments would make the bill administratively compatible with the agency's current procedures and existing duties prescribed in other sections of state law.

On page 1, subsection 1 of section 1 of the bill, lists the exempted boards, commissions and licensing agencies for specific occupations or professions that will not be subject to the provisions of this act. To that list of exemptions, the attached amendments add a subsection "1 (e)," which exempts the Secretary of State as it relates to the licensing of contractors. This additional exemption needs to be added because Chapter 43-07 of the North Dakota Century Code does not allow an out-of-state contractor to contract for work in North Dakota without first having a contractor's license issued by the Secretary of State. It is the Secretary of State's understanding that the intent of this bill is aimed at other individual practitioners practicing their profession or engaging in an occupation on the basis of a license issued in another state.

The purpose of the other portion of the attached amendments is to clarify the Jurisdiction section on line 17on page 4. This section, as currently written, imposes a service of process responsibility on the Secretary of State. However, before it can work, this section needs to be clarified and made consistent with other service of process procedures already followed by the agency. Therefore, the amendments establish a procedure and a fee when the Secretary of State is served with a process, notice or demand. It is comparable to that which is already followed by the Secretary of State's office when a service of process is received on the many different types of business entities administered by the office. In addition, as already exists in other chapters of current law, legislators, state, and county agencies would be exempted from having to pay a filing fee.

Based on information provided by the Office of the Attorney General, the fiscal impact to the Secretary of State will be minimal. They have estimated there would be approximately 25 service of process filings annually. Most of these filings would originate from licensing boards to serve disciplinary actions.

If the amendments to the bill are adopted, the Secretary of State has no objections to the passage of this bill.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2115

Page 1, line 12, remove the second "and"

Page 1, line 13, remove "." and insert ";and"

Page 1, after line 13, insert:

e. Secretary of state with regard to contractor licensing.

Page 4, line 17, after the word "**Jurisdiction**", insert "**-Service of process**"

Page 4, after line 21, insert:

"Service on the secretary of state of any process, notice, or demand is deemed personal service upon the foreign practitioner and must be made by filing with the secretary of state an original and two copies of the process, notice, or demand, with the filing fee of $25. A member of the legislative assembly or a state or county office may not be charged for filing any process, notice, or demand for service. The secretary of state shall immediately forward a copy of the process, notice, or demand, by registered mail, addressed to the foreign practitioner at the address provided by the filer."

Renumber accordingly.

North Dakota Chapter
National Association of Social Workers
Box 1775
Bismarck, N.D. 58502-1775
(701) 223-4161

January 29, 2001

Chairman Lee, Vice Chairman Kilzer and Members of the Senate Human Services Committee:

My name is Connie M. Hildebrand and I appear at this hearing as Legislative Chair for the North Dakota Chapter of NASW, the National Association of Social Workers. We favor SB 2115.

The field of technology is rapidly changing the way many professions do business. Social Work is no exception. Our profession claims Mary Richmond, fellow social worker, as the original advocate of social work technology usage, for she noted the importance of the *telephone* in social work practice – way back in 1917.

Today, electronic communication technology makes direct practice and consultation a reality for those who are separated by both time and space. It is a most unusual challenge. That is why we favor SB 2115. This bill is a beginning attempt to clarify:

1. professional services rendered to a resident of North Dakota are subject to ND law, regardless of the means or mediums through which those services are provided.
2. a "foreign" or out-of-state practitioner who provides services under this section has submitted to the jurisdiction of the appropriate ND professional board
3. nothing prohibits a professional or occupational board from imposing conditions on "foreign" practitioners which are more restrictive than those imposed in this chapter.

This bill does not solve all the compelling social work technology issues that include credential verification, confidentiality, and privacy. Multiple ethical questions remain which will continue to challenge the social work profession in the practice of what many call, *E-therapy*, but this bill is a beginning. It clearly states that the consumer of service is defined as a North Dakota resident, and therefore offered the consumer protection services of North Dakota professions licensed in this state.

We ask for a Do Pass on SB 2115.

Respectfully submitted,

Connie M. Hildebrand

Connie M. Hildebrand
air, Legislative Committee, NASW-ND

MEMORANDUM

TO: Senate Human Services Committee

FROM: James C. Fleming, Assistant Attorney General

RE: Proposed amendments to SB 2115

DATE: February 6, 2001

Attached are a set of proposed amendments to SB 2115. I apologize for the length of the amendments, but I believe the amended bill would be shorter and cleaner if these amendments are adopted.

The attached amendments incorporate the amendments offered during the hearing by the Board of Medical Examiners, Board of Dental Examiners, and the Secretary of State's office.

Major changes in proposed amendments

1) Add three additional exemptions

2) Add a new subsection, suggested in my original testimony, which allows foreign practitioners to provide services to a consumer in this state via telephone or internet without a North Dakota license when the practitioner-consumer relationship has been created in person in the jurisdiction in which the practitioner is licensed and the remote contacts are simply a continuation of that relationship.

3) The section on Limited practice without a license is amended to allow boards the time to investigate and process an application from a foreign practitioner before the practitioner may begin providing service to North Dakota consumers. As introduced, the bill would allow foreign practitioners to practice in this state pending the outcome of their application.

4) The discipline section is clarified as suggested in my testimony and incorporates the procedural requirements in NDCC chapter 28-32.

5) Clarify the service of process section.

I am available at 328-4889 to respond to any questions the committee may have regarding these amendments.

Prepared for the Senate Human
Services Committee by
James C. Fleming
Assistant Attorney General

PROPOSED AMENDMENTS TO SENATE BILL 2115

Page 1, line 12, remove the second "and"

Page 1, line 13, replace the period with a semicolon

Page 1, after line 13, insert:

"e. Secretary of state with regard to contractor licensing;

f. State board of medical examiners; and

g. State board of dental examiners."

Page 2, line 15, after the period insert "1."

Page 2, line 16, after "license" insert "and by this title"

Page 2, line 20, replace the first "person" with "individual" and replace the second "person" with "individual"

Page 2, line 21, replace "section" with "subsection"

Page 2, after line 21, insert:

2. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through a remote means and are a continuation of an existing relationship between the foreign practitioner and the individual receiving the services which was formed in the state or jurisdiction in which the foreign practitioner is currently licensed.

Page 2, line 24, after the first "license" insert "and by this title"

Page 2, line 27, after "include" insert "verified"

Page 2, line 29, after "is" insert "licensed and", after "standing" insert "in that jurisdiction, and any other information requested by the board", and after "A" insert "notice provided under this section, if accompanied by sufficient documentation, will be deemed accepted unless denied by the board. If a notice under this section is denied, the foreign practitioner must immediately cease providing services under this section and may not resume providing services until after a successful appeal of the board's decision under chapter 28-32 or after an application for privileges under this section is reviewed and approved by the board."

Page 2, remove line 30

Page 3, remove lines 1 and 2

Page 3, line 5, after "license" insert "and by this title"

Page 3, line 7, remove "of receipt by the board of" and after "application" insert "is approved by the board"

Page 3, line 8, after "include" insert "verified"

Page 3, line 10, after "is" insert "licensed and", after "standing" insert "in that jurisdiction, and any other information requested by the board", and remove "A foreign practitioner who provides"

Page 3, remove lines 11 and 12

Page 3, line 13, remove "appropriate board."

Page 3, line 16, remove "An application under this section, if accompanied by sufficient"

Page 3, remove lines 17 through 20

Page 3, line 21, replace "Notwithstanding any other provision of law, a" with "A"

Page 3, line 23, replace "in" with "for" and after "licensed" remove "for"

Page 3, line 24, replace "other" with "shorter"

Page 3, line 26, remove "established by the board" and replace "Notwithstanding any other provision of law, a" with "A"

Page 3, line 29 insert after the period "This section does not prohibit a board from requiring a foreign practitioner to take an examination regarding the laws of this state and the rules established by the board."

Page 3, line 30, after the second comma insert "conditions and"

Page 4, line 5, after the period insert "A foreign practitioner's authority to practice an occupation or profession under this chapter is subject to denial, probation, suspension, revocation, or other form of discipline for the same grounds as individuals licensed by the appropriate board in this state."

Page 4, after line 16, insert "A disciplinary action under this section against a foreign practitioner is subject to chapter 28-32."

Page 4, line 17, after "**Jurisdiction**" insert "**- Service of Process**"

Page 4, line 18, after "state" insert "and the appropriate board, to be bound by the laws of this state and the rules established by the appropriate board,"

Page 4, after line 21, insert "Service on the secretary of state of any process, notice, or demand is deemed personal service upon the foreign practitioner and must be made by filing with the secretary of state an original and two copies of the process, notice, or demand, with the filing fee of twenty-five dollars. A member of the legislative assembly or a state or county office may not be charged for filing any process, notice, or demand for service. The secretary of state shall immediately forward a copy of the process, notice, or demand by registered mail, addressed to the foreign practitioner at the address provided by the filer."

Page 5, line 22, after the period insert "This chapter applies notwithstanding any other limitation in state law on the practice of an occupation or profession."

Renumber accordingly

SENATE BILL 2115
Senate Human Services Committee
January 29, 2001

Madame Chairman, members of the Senate Human Services Committee, my name is James C. Fleming. I am an assistant attorney general working with professional and occupational boards and I am here on behalf of the Office of Attorney General Wayne Stenehjem in a **neutral** capacity to explain the provisions in Senate Bill 2115 and to respond to any technical questions the committee may have. Attached to my testimony is a section-by-section analysis of Senate Bill 2115. For the committee's information, there are two other bills currently pending which also address some of the issues addressed in Senate Bill 2115. Those bills are House Bill 1150 (compacts with other states) and Senate Bill 2303 (agencies shall adopt administrative rules providing for licensure of individuals in good standing from another jurisdiction with equivalent requirements).

Since this bill was filed in December, the Attorney General's office has received some helpful questions and comments on the proposed legislation and has continued to review the bill as originally proposed. Based on these comments and review, there are some additional areas to consider if the committee wishes to make a do-pass recommendation on the bill. These areas are:

- Services provided by a foreign practitioner to an individual in this state through remote means, such as by telephone or letter, should be permitted without a license from the appropriate board in North Dakota if the services are a continuation of an association between the foreign practitioner and the individual which was formed in the jurisdiction in which the foreign practitioner is licensed. The foreign practitioner would continue to be subject to the jurisdiction of the appropriate board in North Dakota.
- A foreign practitioner's privileges to practice in North Dakota under Senate Bill 2115 should be subject to probation, suspension, revocation, or other form of discipline for the same grounds as individuals licensed by the appropriate board in North Dakota.

I understand some professional and occupational boards may offer amendments which would add them to the list of boards which are exempt from the bill. The Office of Attorney General offered those boards the opportunity to opt-out of the bill before it was prefiled and has no objection to such amendments.

Madame Chairman, this concludes my testimony on Senate Bill 2115 and I would be happy to answer any question the committee may have on the bill.

SECTION-BY-SECTION SUMMARY OF PROPOSED LEGISLATION ON THE MULTISTATE AND INTERSTATE DELIVERY OF PROFESSIONAL SERVICES

Section One

The most important definition in the proposed legislation is the definition of "foreign practitioner." There are two key parts to the definition. First, the practitioner must be licensed in a state or other jurisdiction which imposes requirements for licensure which are at least as stringent as the requirements imposed in this state. Second, the foreign practitioner must be in good standing in the state in which he or she is licensed and may not be the subject of a pending disciplinary action. In short, a foreign practitioner must be as competent and qualified as a North Dakota licensee before the foreign practitioner is allowed to practice his or her profession or occupation in North Dakota under the legislation, even on a temporary basis.

Section Two

The most frequent argument offered to justify the unlicensed delivery of professional or occupational services to North Dakota consumers via telephone or internet is that the person is providing the services from another jurisdiction. This argument is made despite the fact that the person's provision of services is not completed until those services are received by consumers in North Dakota. Under the proposed legislation, it is the location of the consumer, rather than the provider, which determines whether a profession or occupation is being practiced in this state and whether a license from a North Dakota licensing board is required.

Section Three

The proposed legislation clarifies that a foreign practitioner is not practicing in North Dakota when the practitioner consults directly with a North Dakota licensee. The legislation is not intended to interfere with the ability of North Dakota licensees to freely communicate with experts in other states to improve the quality of services received by North Dakota consumers. As long as the North Dakota licensee stands between the foreign practitioner and the recipient, the licensee is able to monitor the services provided by the foreign practitioner and the consumer is protected. The North Dakota licensee is required to monitor the services provided by the foreign practitioner and will be equally responsible for any deficiency in those services.

Section Four

The premise of the bill is that minimum competence in a jurisdiction which imposes similar or more stringent requirements for licensure can be reasonably equated with minimum competence to practice in this state. In emergency situations, circumstances may result in a demand for professional or occupational services which exceeds the supply of North Dakota licensees. In such situations, the proposed legislation allows a

foreign practitioner to practice in this state for up to sixty consecutive days without needing to obtain a license from the appropriate board in North Dakota. The notice requirement in the legislation ensures that the appropriate board is aware of those foreign practitioners who are taking advantage of the authority in this section. Along with the notice, the board also must receive documentation which verifies that the foreign practitioner is licensed by a jurisdiction which imposes equivalent requirements for licensure and that the practitioner is in good standing. No application is required, which eliminates the delay in obtaining board approval before responding to the emergency. The last sentence in this section ensures that a foreign practitioner will be accountable in this state for professional misconduct or for services which are deficient.

Section Five

This section is intended to address sporadic practice within the state regardless of whether the services are provided over the telephone, the internet, or in person. Again, minimum competence in a jurisdiction which imposes similar or more stringent requirements for licensure can be reasonably equated with minimum competence in this state. Unlike emergency situations, the thirty-day time period is not consecutive. An application is required to be submitted prior to engaging in practice under this section, although the section does not require that the application be granted before the practitioner may practice in this state. An application by an eligible foreign practitioner under this section is deemed to be approved on the date it is received by the appropriate board unless the board denies the application and communicates the denial to the foreign practitioner. The application provides important information to the appropriate board. Along with the application and the required fee, the board also must receive documentation which verifies that the foreign practitioner is licensed by a jurisdiction which imposes equivalent requirements for licensure and that the practitioner is in good standing. A foreign practitioner will be accountable in this state for professional misconduct or for services which are deficient.

Section Six

Many boards in this state currently have authority to waive any required examinations when considering an application for licensure in this state from a foreign practitioner. This section extends such authority to all boards. It also supersedes any requirement that the state in which the foreign practitioner is licensed extend similar privileges to North Dakota licensees.

Section Seven

Another alternative for professional and occupational boards to authorize multistate and interstate practice of a profession or occupation is a multistate compact or agreement. This section authorizes any board to enter into an agreement with one or more other states which identifies the circumstances under which a foreign practitioner may practice in this state. A nearly identical provision is proposed in House Bill 1150.

Section Eight

An important step in regulating interstate or multistate delivery of professional services is to hold a North Dakota licensee accountable for professional misconduct which may occur in another jurisdiction. A North Dakota licensee also may be disciplined for failing to adequately monitor the services provided by a foreign practitioner under section three of the bill.

Section Nine

This section resolves the issues of jurisdiction and service of process which arise when a board in North Dakota attempts to discipline a foreign practitioner for conduct in this state. It also allows North Dakota consumers to hold a foreign practitioner accountable in this state for deficient services.

Section Ten

This section clarifies that the proposed legislation is intended to enable and authorize boards to allow foreign practitioners to practice in this state, but not to require boards to permit such practice when the health, safety, or welfare of North Dakota consumers justifies a prohibition on such practice. Each board is expected to determine whether to invoke the authority provided in the proposed legislation. A board is allowed to take immediate action to protect the public under this section by promulgating emergency rules.

NORTH DAKOTA BOARD OF NURSING

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HUMAN SERVICES COMMITTEE

TESTIMONY RELATED TO SB 2115

Chairperson Lee and members of the Human Services Committee, my name is Constance Kalanek, Executive Director of the North Dakota Board of Nursing.

On behalf of the board, I wish to offer testimony in support of SB 2115 relating to the practice of a regulated occupation or profession. The focus of my testimony is on license compacts on page 3 & 4 of the bill. The board of nursing has also introduced very similar legislation in HB 1150 Administrative Agency Compacts.

As multistate health care delivery systems and telecommunications technology has emerged, attention has been drawn to the perceived barriers created by a state-based licensure system. The primary issue faced by the nursing regulatory community has been the increasing practice of nursing across state lines. The geographic borders that separate states and their traditional practice area jurisdictions have been removed by technology. Unless a model of nursing licensure accommodates the nurse and the patient being in different locations, nurses may be practicing without appropriate legal authority if the nursing care processes cross-state lines. I have attached for your review an opinion provided by the Board's attorney Mr. Cal Rolfson entitled "Opinion Regarding Practicing Nursing by Telecommunication Across State Lines".

In an effort to proactively respond to this issue, the North Dakota Board of Nursing has been studying the current model of nursing licensure and has conducted a comprehensive review of the interstate compact and its implications. The Board of Nursing established a Multistate Licensure Advisory Task Force in 1998 composed of representatives from nursing and medical organizations, health care organizations, state government, legislators, and consumers. The committee has met several times over the last two and one-half years. In September 2000, the Task Force recommended to the Board of Nursing to draft legislation on licensure compacts that would include all professional and occupational boards. The minutes are attached for your review.

In September 2000, the MULTISTATE LICENSURE ADVISORY TASK FORCE requested dialogue with boards and associations in North Dakota on license compact legislation. Since many regulatory boards could potentially be impacted by multistate licensure, the Task Force asked for input on this proposed legislation. The board surveyed 32 boards, associations, and individuals for input/reaction to the licensure issue. The board received fourteen responses, seven were not opposed, one very interested and took no position, one did not support, four supported, and one indicated they were neutral.

One of the key elements of this model (multistate licensure) of licensure is the interstate compact. An interstate compact is an agreement between two or more states established for the purpose of remedying a particular problem of multistate concern. The model provides that the practitioner is held accountable

for the practice act and other regulations in the state where the professional provides nursing services to the citizens of that state. This accountability is similar to the motor vehicle driver who must obey the driving laws in the state where driving occurs.

Implementation of the multistate licensure model will proceed as individual state legislatures adopt the interstate compact and become a party to the compact. It is anticipated that it will take some time for a large number of states to become a party to the compact. To date thirteen states, including South Dakota, Iowa and Nebraska have passed legislation to enact the compact for nursing regulation. The board of nursing is aware of ten states that intend to address multistate licensure through rules or legislation in the next three years.

I have attached for your review a handout from the National Council of State Boards of Nursing entitled, Frequently Asked Questions. I have also attached a list of the states that have either implemented the compact or soon will be doing so. Hopefully, this information may be useful in your deliberation of this proposed legislation.

CONCLUSION

The Board of Nursing believes this legislation is a viable option which would increase access to care while maintaining public protection, allows for expedient access to qualified practitioners as expected by the consumer without regard for state lines, and allows for practice across state lines either physically or electronically.

Individual licensed nurses are always held accountable for their actions. The nurse who practices under a multistate licensure privilege is held accountable to the state's practice act where nursing services are provided. As expected, the board will continue to carry out its mission as to the safety of the specific nursing practices, protection of the public and the provision of competent practitioners. Thank you for giving me the opportunity to provide testimony on behalf of the North Dakota Board of Nursing. The Board appreciates your willingness to consider a proactive approach to licensing practitioners in North Dakota and your support for SB 2115.

I am now open for questions.

ROLFSON SCHULZ LERVICK
LAW OFFICES
A PROFESSIONAL CORPORATION

August 25, 1995

Karen Macdonald, R.N.
Executive Director
N.D. Board of Nursing
919 S. 7th St., Ste. 504
Bismarck, ND 58504

Re: Opinion Regarding Practicing Nursing by Telecommunication Across State Lines

Dear Ms. Macdonald:

This is in response to your request for my opinion concerning the legal impact of telecommunication of nursing data across state lines and its effect upon the Board's responsibility to regulate nurses and nursing practice within North Dakota. In particular, you ask whether nurses not licensed to practice nursing in North Dakota who provide nursing care through telecommunication to North Dakota residents are required to hold a North Dakota nursing license. Your letter cites several examples of how recent communications technology and increased offerings of managed care allows nurses to utilize that technology without a physical presence in North Dakota.

Some initial observations come to mind. It is clear that the North Dakota Board of Nursing (the "Board") cannot prevent North Dakota citizens from unilaterally seeking and contacting out-of-state health care providers, including nursing and medical providers for their health care needs. There is (or ought to be) a sort of "caveat emptor" (buyer beware) principle that applies when a North Dakota consumer personally seeks out-of-state health care services from professionals that are beyond the borders of our state and thus outside the gamut of North Dakota health care regulators. That caveat applies (or ought to), for example, whether the North Dakota resident drives to Minnesota to receive direct medical care there or whether it is received while within the borders of North Dakota via telecommunications from out-of-state health care givers.

The problem arises when errors in professional nursing practice occur and the patient's health and safety is jeopardized as a result. If those errors occur in Minnesota while the patient is present there, for example, the patient potentially has both civil (malpractice) and administrative (licensure) recourse in Minnesota, and questions of jurisdiction and residency or citizenship do not

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generally surface. However, when care is rendered by way of an interstate telephone line, the regulatory focus becomes cloudy.

The four examples you cite pose real regulatory dilemmas for the Board. Since the Board's authority to regulate at all comes from state law and supporting rules, it is necessary to briefly examine those underpinnings of authority.

APPLICABLE STATE LAW AND RULES

Chapter 43-12.1 establishes legislative authority in the Board to regulate the "practice of nursing." N.D.C.C. § 43-12.1-02 defines the practice of nursing for both registered nurses and licensed practical nurses. N.D.C.C. § 43-12.1-03 specifically requires that "[a]ny person" providing such nursing care to a resident "of this state" must hold a current valid license to do so from the Board.

N.D.C.C. § 43-12.1-04 sets out those persons who are statutorily exempt from such licensure, which includes the following exemptions:

1. In cases of emergency or disaster.

2. Students practicing nursing as part of a Board approved nursing education program.

3. Duly licensed nurses from another state who are employed by the federal government.

4. Duly licensed nurses in another state or Canada whose employment requires them to accompany and care for a patient in transit.

5. Providing nursing for an immediate family member.

6. A person who is not licensed as a nurse by the Board who renders assistance under the provisions of N.D.C.C. Ch. 23-27 (Licensing of Ambulance Services).

7. Certain individual habilitation or case plan services.

The rules adopted by the Board relevant to this issue generally include the provisions of N.D.A.C. Chs. 54-02-07 (Disciplinary Action), N.D.A.C. 54-05-01 (Standards for Quality of Practice for Licensed Practical Nurses), N.D.A.C. 54-05-02 (Standards for Quality of Practice for Registered Nurses), and N.D.A.C. 54-05-03.1 (Advanced Registered Nurse Practice).

It is clear that the principal statutory direction and responsibility of the Board is to protect the health and safety of the public through the regulation of nursing practice occurring within the borders of this state. N.D.C.C. § 43-12.1-01. The statement of legislative intent found in this statute explicitly states that "...the practice of nursing is directly related to the public welfare of the citizens of the state of North Dakota..." and the public interest requires that the Board "...assure that qualified, competent practitioners and high quality standards..." are maintained. (Emphasis added). Id.

This introductory policy statement of legislative intent, as with all other laws affecting the Board, is liberally construed. N.D.C.C. Section 1-02-01. The North Dakota Supreme Court has also underscored the direct responsibility of the Board of Nursing to protect North Dakota citizens and through its regulatory process to assure responsible nursing practice within its borders. Trinity Medical Center et al. v. North Dakota Board of Nursing et al., 399 N.W.2d 835 (N.D. 1987).

In light of the "information superhighway" as that term has come to be commonly used of late, interstate telecommunications regarding health care (telephone, television, facsimile, and computer technology are examples) have not only impacted the general public with new challenges offering immediate access to interstate health care provision, but also have required boards of nursing (and other health care licensing boards) to face unique licensure issues. "Telemedicine" is rapidly becoming an expanded high-tech genre of health care that permits North Dakota health care licensees and their clients to participate in live interactive video and computer linking with health care professionals and specialists in other states. This is particularly helpful with patients/clients in North Dakota who live in communities that may be isolated from technical and sophisticated advances in health care that are more common in larger urban areas out of state. However, the statutory responsibility of the North Dakota Board of Nursing to protect the citizens of this state remains unchanged in spite of such advancements in telecommunications.

Again, it is axiomatic that the North Dakota Board of Nursing has jurisdiction only to regulate its nursing licensees, and the practice of nursing that occur within the borders of North Dakota. Those nurses duly licensed by the Board, whether practicing nursing within or without North Dakota, who receive interstate telecommunications regarding the health care of North Dakota patients/clients are, of course, subject to the Board's regulatory jurisdiction. However, the difficulty the Board faces with health care telecommunications, for example, is manifested when the North Dakota licensed nurse interacts with a physician or other health care professional out-of-state not licensed in North Dakota

and from whom the North Dakota nurse may be receiving direction.

The exemplary issues and collateral questions you present may be summarized as follows:

1. Satellite hospitals have patients being monitored by the "parent" hospital. Nurses in North Dakota receive an electrocardiogram response via telemetry from out-of-state and may make and communicate decisions regarding patient care to the nurses in the out-of-state satellite hospital who are doing the actual physical care.

2. Managed care corporations from other states enroll North Dakota residents, and provide consultation to them over the telephone regarding the management of their medical problems. Often this is a role for the out-of-state licensed nurse in the corporation.

3. North Dakota residents are able to access mail-order pharmaceutical businesses and by submitting their prescriptions, receive medications directly from the out-of-state pharmacies.

4. Border health care agencies outside of North Dakota (home health, hospice) may have North Dakota clients who either are cared for by physicians in adjoining states or the agency cachement area might include border communities.

5. Nurses duly licensed in North Dakota may respond to an order for the health care of a person residing in North Dakota from a physician via telecommunications when the physician is in another state and unlicensed in North Dakota?

6. You question whether the North Dakota licensed nurse receiving such telecommunications must verify the credentials of the physician providing the consultation and medical orders if the physician is from another state?

7. You question whether the North Dakota nurse must verify the physician-client relationship through some means and criteria?

8. You ask what licensure liability is imposed on the nurse in North Dakota for an error in the implementation of a telecommunicated order?

9. You ask how standards for client confidentiality are maintained and assured under these scenarios?

Since these issues are newly emerging issues nationally as a result of the "information superhighway", few if any boards of nursing through the United States have resolved these issues (though I suspect they are all currently wrestling with them). As a result there is a dearth of judicial precedent nationally by which to guide any research in this area.

Since these issues are often issues of residency, some general guidance currently exists on this subject. The U.S. Supreme Court laid to rest the issue of residency as a prerequisite to professional licensure. In 1983, the Supreme Court of New Hampshire refused to issue a license to practice law in that state though the applicant had taken and passed the New Hampshire exam. The rationale of the New Hampshire Bar Board in denying the license was because the applicant resided in Vermont. The applicant sued the New Hampshire Bar for alleged violation of her rights under the "privileges and immunities" clause of Article IV, Section 2 of the United States Constitution (stating, in part, that "citizens of each State shall be entitled to all Privileges and Immunities of citizens of the several States.") On appeal, the U.S. Supreme Court ruled in the applicant's favor holding that the residency rule denied the applicant her constitutional rights under the privileges and immunities clause. Supreme Court of New Hampshire v. Piper, 470 U.S. 274 (1985).

Other than qualified by the narrow issue of residency discussed above, the North Dakota Board of Nursing, in my opinion, remains responsible to regulate the practice of nursing within North Dakota and where nursing care is provided to North Dakota residents. Where interstate telemedicine and telecommunications are involved in nursing practice, I advise the Board to consider the adoption of rules that will specifically speak to these unique and emerging issues. The reason for the adoption of rules, of course, is to develop standards of practice that have not previously existed in this telecommunication area. Rules also give guidance to the Board in any disciplinary process and help insure due process for any nursing practice that may come under regulatory scrutiny. Until such rules are considered, deliberated upon by the Board, and ultimately adopted, each case involving questions regarding telecommunications of health care information in the nursing setting is better considered by the Board, and its disciplinary process on a case by case basis.

In short, subject to the clear authority of the Board to regulate nursing practice as broadly discussed above, the complexity of this issue and the multitude of unique facts that can vary the host of questions presented, make a clear legal response to those questions impractical.

I will be pleased to work with you and the Board in this challenging but vital effort.

Sincerely,

Calvin N. Rolfson
Special Assistant Attorney General

00-BON.LTR

MULTISTATE LICENSURE ADVISORY COMMITTEE
September 13, 2000
10:00 – 11:00 AM
IVAN TELECONFERENCE

MINUTES

Present: Board Members None; Participants present were: Elizabeth Nichols RN, CUNEA, Grand Forks; Deb Haagenson RN, Fargo; Arnold Thomas, ND Health Care Association; David Peske, North Dakota Medical Association; Melana Howe, RN, Hettinger; Sharon Moos, RN, Executive Director of North Dakota Nurses Association; Elaine Taylor, LPN, NDLPNA; Staff: Karla Bitz RN; Linda Shanta RN; Julie Schwan, Cal Rolfson, Attorney at Law; and Constance Kalanek RN.

I. Rule-making. Cal Rolfson provided a summary of the legislative versus rule promulgation process. A videotape of Mr. Rolfson's summary is available upon request through the board office. A copy of the legislation currently in effect in Maine was reviewed and is attached. (See Sec. C-7.10 MRSA)

II. Fiscal Impact. Connie Kalanek reviewed the anticipated revenue loss for MSL participation. The potential estimated loss of revenue through renewal fee is approximately $42,050.00 and loss of endorsement fee is $8,400. This is a loss of 11% of the total budgeted income each fiscal year. The board has not projected the cost of implementation of a multistate licensure system.

III. Organizational Perspective. Melana Howe reported on the impact of MSL on the West River Health Services. The organization spends approximately $1100 each year on licensure fees for nurses. The organization pays for the second license when the nurse is employed to practice in more than one state. WRHS has a low turn over rate and have not had recruitment problems of qualified personnel.

IV. Discussion.

- The committee discussed the rule making process as it relates to multistate licensure compacts.
- A number of participants discussed the operational issues and tracking responsibilities of employers.
- Revenue loss was discussed. The board has not projected the cost of implementation of a multistate licensure system.
- Discussed drafting legislation that would be similar to the Maine document, which includes professional groups without specifying any one group.
- Discussed support from North Dakota Nurses Association and North Dakota Health Care Association for using a legislative process similar to Maine.
- Discussed the political ramifications and process related to proposing this type of legislation.

V. Recommendations

1. Present this discussion at the next board meeting on September 21-22, 2000.

State Compact Bill Status

Page Last Updated 01/26/2001. Most Recent Change(s) to This Page Marked in Blue.

The following table and map indicate the status of bills introduced in different states in order to enact the interstate nurse licensure compact. States shaded in green have enacted such legislation; states shaded in orange have introduced legislation regarding the compact. Bill text, if available, may be accessed by clicking the link in the far-right column of the table; bill text is provided by state legislative Web sites. Note that some of the bills are offered as Adobe® Acrobat® PDF files and require that Adobe Acrobat Reader be installed on your computer in order to access the files. The National Council takes no responsibility for the accuracy, accessibility or availability of bill text linked to this page.

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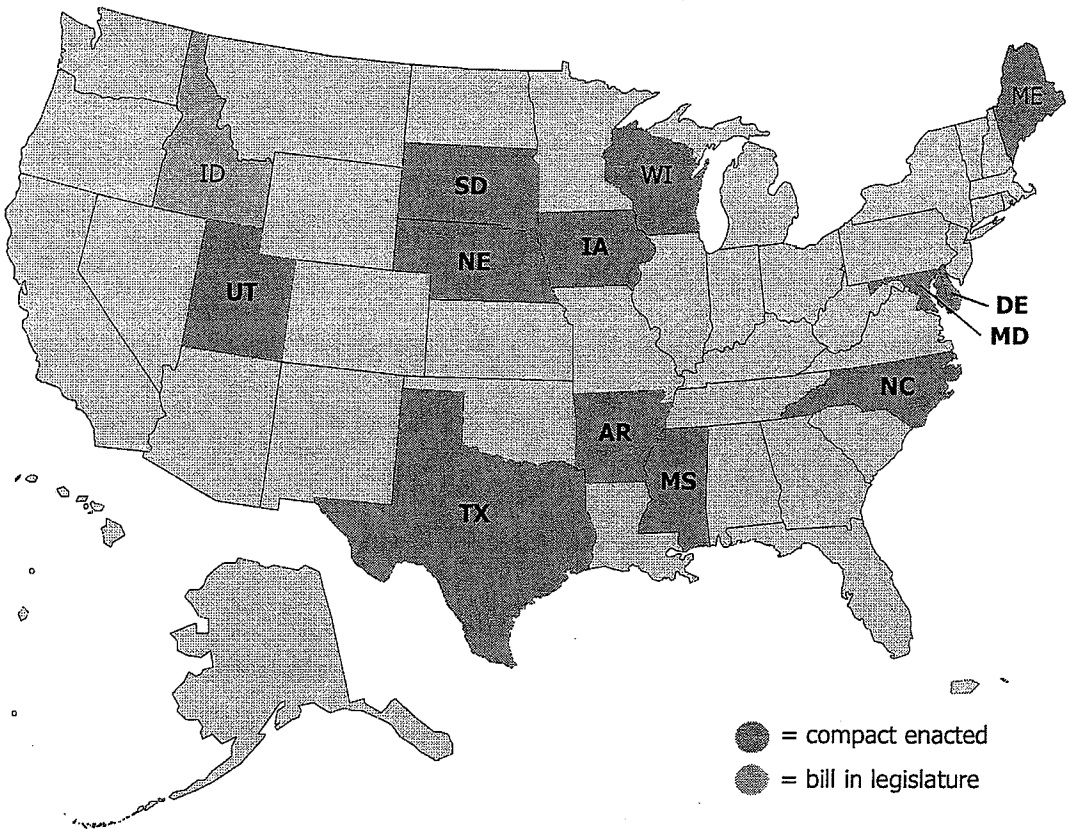
STATE	BILL #	STATUS	DATE OF LAST ACTION	EFFECT. DATE	BILL TEXT
Arkansas	S 28	Signed by Governor	2/24/1999	7/1/2000	[click]
Delaware	HB439	Signed by Governor	6/23/2000	7/1/2000	[click]
Idaho	4	To Health and Welfare Committee	1/8/2001	N/A	[click]
Iowa	HF 2105	Signed by Governor	3/16/2000	7/1/2000	[click]
Maine	LD 2558	Permission to implement Compact by rule	8/11/2000	N/A	[click]
Maryland	S 590	Signed by Governor	4/27/1999	7/1/1999	[click]
Mississippi	H 535	Signed by Governor	4/22/2000	7/1/2001	[click]
Nebraska	L 523	Signed by Governor	2/15/2000	1/1/2001	[click]
North Carolina	S 194	Signed by Governor	7/2/1999	7/1/2000	[click]
South Dakota	H 1045	Signed by Governor	2/16/2000	1/1/2001	[click]
Texas	H 1342	Signed by Governor	6/19/1999	1/1/2000	[click]
Utah	S 146	Signed by Governor	3/14/1998	1/1/2000	[click]
Wisconsin	A 305	Signed by Governor	12/17/1999	1/1/2000	[click]

Other information about state legislation is available through the Other Web Resources section of this Web site.

Map of State Compact Bill Status



Click one of the following links to access a map page formatted for print-outs or transparencies: color map | black-and-white map.

***QuickLink* Code: QL-mr100001**

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Frequently Asked Questions

1. What is the mutual recognition model?

The mutual recognition model of nurse licensure would allow a nurse to have one license (in his or her state of residency) and practice in other states, as long as that individual acknowledges that he or she is subject to each state's practice laws and discipline. Under mutual recognition, practice across state lines would be allowed, whether physical or electronic, unless the nurse is under discipline or a monitoring agreement that restricts practice across state lines. In order to achieve mutual recognition, each state would have to enter into an interstate compact that allows nurses to practice in more than one state.

2. What is an interstate compact?

"An interstate compact is an agreement between two or more states established for the purpose of remedying a particular problem of multistate concern." (*Black's Law Dictionary*)

An interstate compact:

- supersedes state laws
- may be amended by all party states agreeing and then changing individual state laws

3. How many jurisdictions must enact a compact before it becomes effective?

A compact could be effective after only two jurisdictions enact it into law; however, the motion passed by the Delegate Assembly proposed that a state enacting the compact include an effective date no sooner that January 1, 2000. The compact's applicability would obviously be limited without broader participation by the states.

4. How would primary residency for licensure purposes be determined?

The compact administrators defined primary residence in the compact rules and regulations. The sources used to verify primary residence may include, but are not limited to, driver's license, federal income tax return or voter registration.

5. Why was residency, not practice location, used for determining jurisdiction?

Mutual recognition is similar to many other familiar activities based on state or place of residence, including obtaining a driver's license, paying taxes and voting. Given the many employment configurations in which nurses work, there is likely to be less confusion about where a nurse resides than about the location of his or her primary state of

practice. Tracking down a nurse in the event of a complaint/investigation would be more readily accomplished with a residence link, or address, than an practice, or employment, link.

6. Why is an individual limited to one license at a time?

The one license concept has a number of advantages including:

- reduces the barriers to interstate practice
- improves tracking for disciplinary purposes
- promotes cost effectiveness and simplicity for the licensee
- acts as an unduplicated listing of licensed nurses
- facilitates interstate commerce

7. Can an individual hold both an RN and an LPN/VN license?

Yes, the mutual recognition model provides for this authorization (i.e. one license per each license type if permitted by a home state).

8. Can the interstate compact "mandate" that an individual hold only one license of each type (RN and LPN/VN)?

Yes, the "one license limit" is a term of the compact, and all party states would agree and be bound to impose such a limit. The basic reason for this limit is public protection, in that one license assures that all pertinent information about a nurse's licensure and discipline, past and present, is integrated and readily accessible to boards in one place. This mandate does not apply to non-party states.

9. Will the mutual recognition model reduce the level of a state's licensure requirements?

No. Under mutual recognition, states will continue to have complete authority in determining licensure requirements and disciplinary actions on a nurse's license per the state's Nursing Practice Act.

10. How does the mutual recognition model address the varying scopes of nursing practice as authorized by each party state?

The mutual recognition model provides that the nurse is held accountable for the nursing practice laws and other regulations in the state where the patient is located at the time care is rendered. This accountability is similar to the motor vehicle driver who must obey the driving laws in the state where he or she is driving. The accountability is no different from what is expected today.

11. Does the interstate compact affect the authority of the home state to discipline?

As provided in the compact, both the state of licensure ("home state") and state where the patient is located at the time the incident occurred ("remote state") may take disciplinary action and thus directly address the behavior of the out-of-state nurse. The compact will not diminish current authority of the home state to discipline, but will actually enhance the home state's ability to discipline. The compact will enable ready exchange of

investigatory information, allowing the home state to have the most current and accurate information in order to better determine the appropriate course of action in disciplinary cases.

12. How would violations be reported and/or be processed in a mutual recognition model?

Complaints would be addressed by the home state (place of residence) and the remote (practice) state. Complaints to the home state concerning a violation in the home state would be processed in the current system. A complaint to the home state concerning a violation in a remote state would be processed cooperatively. For example, the remote state may issue a cease and desist order to the nurse, and the home state may take disciplinary action against the license of that nurse. A complaint to the remote state concerning a violation in the remote state would be processed by the remote state and also reported to the home state. A coordinated licensure information system will enable the sharing of information. All information involving any action would be accessible to all party states. The Disciplinary Data Bank, which is a subset of the Coordinated Licensure Information System containing only final actions, would continue to be accessible to non-party, as well as party states under the current system.

13. What is meant by multistate licensure privilege?

Multistate licensure privilege means the authority to practice nursing in a remote state pursuant to the interstate compact. It is not an additional license.

14. What is meant by home state action?

Home state action means any administrative, civil, or criminal action permitted by the home state's laws which is imposed on a nurse by the home state's board of nursing or other authority, including actions against an individual's license. Only the home state can take action against the license.

15. What is meant by remote state action?

Remote state action is a new authority provided by the proposed interstate compact. Remote state action is any administrative, criminal or civil penalty imposed on a nurse by a remote state's licensure board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state. For example, under the compact, authority is given to issue cease-and-desist orders by the remote state or the remote state licensing board.

16. What disciplinary actions must a home state take based on a remote state action?

The home state will evaluate the nurse's behavior which led to the remote action and will respond based on the laws of the home state. The home state is required by the compact to evaluate the nurse's behavior in the same manner (i.e., "with the same priority and effect") as it would had the incident occurred in the home state, but the home state is not required to take any particular actions nor to enforce the remote state's laws.

17. Would every complaint received by the remote state(s) and results of the complaint investigation need to be shared with the home state?

The remote state will report to the administrator of the information system any remote state actions as well as the factual and legal basis for such actions. The remote state will also report any significant current investigative information yet to result in a remote state action. The administrator of the information system will notify the home state. The compact administrators will develop policies and guidelines for defining significant complaints, as it is recognized that many complaints are not substantiated and reporting these would increase workloads and may be nonproductive.

18. Concerning complaints, what information would be reasonably necessary to share with a party state?

Each party state may share information or documents relevant to a current, significant investigation.

19. How would individuals participating in alternative programs be affected by the compact?

Nothing in the compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action, and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without the prior authorization from such other party state.

20. Will a state board have the authority to deny licensure by endorsement to an applicant who has had discipline action in another state?

Yes. The licensing authority in the state where an application is made may choose not to issue a license if the applicant does not meet the qualifications or standards for granting a license.

21. Why are advanced practice registered nurses (APRNs) not included in the mutual recognition model?

The Board of Directors endorsed mutual recognition for all nurses, with a different timeline for APRNs. The rationale for the different timeline of implementation for APRNs is that a base of comparable licensure requirements does not exist for APRNs.

22. Does the interstate compact affect states' collective bargaining rights?

The compact does not impact the statutory authority at the federal or state level for collective bargaining. This is not a regulatory issue. In terms of licensure process actually implemented by states when there were strikes in the recent past, there would be little or no practical difference in the ability of employers to bring in licensed nurses from other jurisdictions under mutual recognition.

23. When will the mutual recognition model be implemented?

State legislatures will first need to enact the interstate compact into state law. The motion

adopted by the Delegate Assembly says state legislatures are encouraged to agree that implementation will not take place before January 1, 2000. This would enable Member Boards and National Council to accomplish the activities outlined in *Strategies for Implementation of the Mutual Recognition Model of Nursing Regulation.*

24. How does enactment of the interstate compact affect a state's current Nurse Practice Act?

Enactment does not change a state's Nurse Practice Act in any way. The compact gives states additional authority in such areas as granting practice privileges, taking actions and sharing information with other party states.

25. How does enactment of the interstate compact affect the individual licensee?

The individual RN or LPN/VN residing in a party state will be able to practice in all the party states, unless there is some restriction placed on the multistate licensure privilege. The individual RN or LPN/VN residing in a non-party state will continue to be licensed in individual state(s), just as at present.

26. If a nurse lives in a party state and obtains a license in a non-party state, must she or he give up the license from the party state?

No. The license from the home state, which is a state that is a party to the compact, allows the nurse to practice in all the party states. The license obtained from the non-party state would allow practice in just that state.

27. Is there a time requirement for applying for a new license in a new home state when changing residence from one party state to another?

According to the interstate compact rules and regulations, a nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days.

28. The compact enables the compact administrators to develop rules and regulations to administer the compact. How do these rules and regulations provide authority in the individual party states?

The interstate compact is a legal contract between states that enables nursing practice across state lines. In each state that adopts the compact, the compact is an additional statutory layer above the individual state's Nurse Practice Act, which remains in place. The compact administrators develop the rules and regulations to administer the compact, and then individual state boards of nursing adopt the rules. If an individual state refuses to adopt the rules the compact administrators develop, that state would be in violation of the contract established by the interstate compact and thus could lose the status of party state to the compact.

29. How will an employer know that a nurse's license is no longer valid?

The burden will be on the employer, as it is now, to verify licensure at all significant times of change in the status of nurses who they employ. Under the interstate compact, these

significant times will include any time a nurse changes state of residence.

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AARP was founded in 1958 by Dr. Ethel Percy Andrus as a voluntary, nonprofit, nonpartisan organization dedicated to improving the quality of life of its members and people of all ages. Since sound laws and their implementation are a major means of enhancing the quality of life for the whole community, AARP is active in the public policy arena.

In North Dakota there are more than 71,244[1] AARP members. The AARP North Dakota State Legislative Committee (SLC), a volunteer body composed of AARP members from across the state, represents these members' interests before the state's legislative and administrative bodies. Often, the SLC works in cooperation with broad-based coalitions and other AARP program volunteers.

Working with and at the direction of the SLC are several other AARP volunteers, including the Capital City Task Force (CCTF) and the AARP/VOTE Coordinator. The CCTF is a group of AARP volunteers physically located near Bismarck. They attend legislative hearings, testify before legislative committees, track bills, research issues, and update the SLC. The AARP/VOTE program educates the public about important public policy issues and where candidates for public office stand on them. The AARP/VOTE Coordinator serves as an ex officio member of the SLC. The SLC also works closely with state affiliates of the National Retired Teachers Association (NRTA), a division of AARP. NRTA members are dedicated to continuous educational opportunity, advocacy, and service.

AARP provides responsible, effective advocacy when and where our members need it.

[1] Source: *AARP Membership Report*, October 2000

AARP is the nation's leading organization for people age 50 and older. It serves their needs and interests through information and education, advocacy, and community services provided by a network of local chapters and experienced volunteers throughout the country. The organization also offers members a wide range of special benefits and services, including *Modern Maturity* magazine and the monthly *Bulletin*.

For more information, contact:

ND AARP SLC/CCTF Volunteer

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NORTH DAKOTA
STATE LEGISLATIVE COMMITTEE

Helping Shape State Policy

2001 Legislative Program

AARP

North Dakota State Legislative Committee

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* *Member*, Capital City Task Force

Each year, the North Dakota State Legislative Committee selects legislative priorities, which are consistent with the policies adopted by AARP's Board of Directors. These priorities are based on the needs of the state's residents and developed from feedback from member surveys, general member communications, and AARP-sponsored hearings and events. Throughout the year, the SLC may work on other legislative and regulatory proposals as they arise.

2001 North Dakota SLC Legislative Program

- Restore dollar for dollar state funding for the Senior Citizens Mill Levy Match in order to improve local aging services
- Provide funding for adult protective services
- Expand long-term care services that help seniors and the disabled stay in their own homes, including the SPED and Expanded SPED programs
- Help older North Dakotans with the high cost of prescription drugs
- Ensure access to guardianship and conservatorship services for vulnerable adults

North Dakota Capital City Task Force

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How do I volunteer?

Begin by completing an application for Partners in Guardianship. After screening, you will be notified if you are in the program. Training provides opportunities to explore guardianship before making a commitment. After training, if willing, you can be matched with someone who needs a guardian.

For more information

To learn more about opportunities to share a bit of your time and self with someone who needs your help, call any Catholic Family Service Office in North Dakota.

Grand Forks	(701) 775-4196
Bismarck	(701) 255-1793
Minot	(701) 852-2854
Fargo	(701) 235-4457

or call or write directly to:

Partners in Guardianship
2537 South University Drive
Fargo, ND 58104

Atencion: Si usted no entiende Ingles, por favor dejenosio saber, un interprete sera provida

A Program of

Catholic Family Service

Serving all people in the name of Jesus

Providing service – regardless of religion, race, age, handicap, sex or ability to pay

Partners in Guardianship

A program that recruits, screens and trains individuals who are qualified and interested in serving as guardians

Their life is better because I've been involved.

You can make a huge difference in someone's life, greater than you may imagine. How? By becoming a guardian to a vulnerable adult, to someone who needs a helping hand in managing his or her affairs, in making good decisions and protecting his or her interests. As a guardian you will use your good judgment to help someone less fortunate live a safe, healthy life of dignity and respect. You may even make a difference between a quality life and early death!

All you need is a good heart, common sense, personal integrity, compassion, and a willingness to see that justice is served.

What IS a guardian? A guardian is assigned by the court to look after the best interests or act in behalf of another person in some or all the domains of life.

The guardian makes certain decisions and assists with others, protects the ward's person, resources, and rights, makes sure services are rendered fairly and equitably and the ward is treated with the respect and compassion he or she deserves. Depending on the nature of your guardianship, this may include making sure bills are paid, arranging for services, working with care providers, and overseeing medical treatment.

As guardian, you will protect your ward from abuse, neglect, including self neglect, and exploitation, and help preserve his or her personal dignity and respect.

Are there different kinds of guardianship? Guardianships may be full, limited, temporary, or emergency. A full guardianship includes all domains of life. Limited guardianships cover one or more domains, and may have specified responsibility limits within domains as well. Temporary and emergency guardianships are short term, used for transitions and during medical emergencies.

Marlys' daughter, Charlotte, has developmental disabilities. When Charlotte turned 18, Marlys became her guardian. For a while Charlotte lived at home and took life skills classes. Then Marlys helped her move to a group home and she learned to live more independently. Recently Marlys helped Charlotte find an apartment with a suitable roommate, and continues to help Charlotte become more independent. Charlotte makes many of her own decisions, with Marlys providing her advice, encouragement, and personal support. Charlotte has income from SSI and part time work. Her dream is to find a full time job with enough pay so she can be off SSI.

Bea's neighbors became concerned when they saw her walking with no coat in cold weather. They called social services. The social worker discovered that Bea lived without heat or proper food in a very dirty house. Bea cried when the social worker interviewed her. A guardian was found and Bea now lives in a small, tidy apartment, with heat, warm clothes, clean food, and support services. Her personality has begun to shine.

Jordan once had a large home on the bank of a river. When Jordan had his stroke, he no longer could understand contracts and he thought everyone had his best interests at heart. When a man called him on the phone and told him that he had to sign papers, Jordan signed away his home. Jordan's new guardian was able to cancel this agreement and save Jordan's house.

Brad, a 28 year old guardian with three children, ages 3, 7 and 9, volunteers at his church, belongs to KC's and Kiwanis, coaches soccer, is a scout leader, and works as a financial counselor. His family often skis in winter and visits the seashore in summer. He oversees health care and financial matters for his ward.

Just a Little Part of Your Life...

Will being a guardian cost me anything? Being a guardian will take some of your time, but will not cost you money or personal resources. Anything your ward needs will be paid for by the ward's own resources.

Do I have to share my home? No. Your ward lives a separate life. While not required or necessary, some guardians do include their wards in certain family activities, as a way of being supportive and friendly.

What if my ward commits a crime? Am I liable? No. You are only liable for your own actions and decisions. If your w[illegible] commits a crime, you may need to [illegible] sure your ward has adequate repres[illegible]on and that his or her rights to due process are protected, depending on the nature of your guardianship. You may work with the court and community for an individual justice plan for your ward, if appropriate.

What about other liabilities? If you act in an ethical, reasonable way toward your ward and your ward's affairs, follow parameters set by the court, and take reasonable steps to ensure your ward's health and safety, you should have little to worry about. This is not to say there are no liabilities, but the key is acting with integrity, honesty, compassion, responsibility, and common sense.

If I decide to be a guardian, is it forever? Usually guardianship continues until the ward dies or it is terminated by the court for any reason: if, for example, the ward regains capacity, if the guardian can no longer serve, if the court is dissatisfied with the guardian's work or behavior, if the guardianship is moved to a different venue, and for other reasons. If your personal circumstances change, you can ask the court to terminate your guardianship.

Am I really NEEDED? Can't some other solution be found? You are really n[illegible]d. Guardianship is a protective measur[illegible]t resort. People who need guardians h[illegible]o other way to manage their lives, and no one else to protect their interests. They are incapacitated–unable to make informed, reasonable decisions in certain areas of their lives and unable to protect themselves from abuse, neglect and/or exploitation.

Just WHO needs a guardian? People need guardians for many reasons: dementia, stroke, mental illness, Alzheimer's, brain injury, accident, major illness, other problems that limit their ability to remember, think clearly, organize information, make good decisions, or communicate. People who need guardians are very vulnerable and need help in order to live safe, healthy, dignified lives. Having a g[illegible]ian may save someone from personal, health o[illegible]ial difficulties, from living in disorder and mis[illegible], or even from early death.

Just how much of my time might this all take? That depends. Once well established, many guardianships take [illegible] there are many issues, can take several hours a week. How much time also depends on how much involvement the guardian decides to have. Many guardians become friends with their wards or provide an active support system over and above the specifics of the guardianship. Others keep a more limited, yet supportive relationship. A guardian needs to know his or her ward well and be responsible for what the court assigns. Good frequent communication is a key.

What about my kids, job, vacations, activities? Most guardianships fit well into an ordinary very busy life. Partners guardians have only one ward and can get to know him or her in special ways. Guardians still live their own lives to the fullest, complete with soccer games, kids, work, hobbies and trips. Most find that being a guardian enriches their own life, often their family's life as well. You get to know someone you would not otherwise ever know. Often you will also learn things that benefit not only your ward but also yourself and family.

[illegible]ing needed? Training is strongly advised fo[illegible] guardians and provided through the Partners in Guardianship program. Training helps guardians know their responsibilities and limitations, identifies dilemmas and avenues for consideration, helps prevent conflict of interest and other problems, develops skills in decision-making, problem-solving, communication and teamwork, and provides information about resources and systems that serve their wards. All Partners guardians must complete training in order to qualify for matching with a potential ward.

Can anyone else participate in training? Yes. Partners in Guardianship invites and encourages anyone who is a guardian to participate in the 16 hour training class. Anyone who needs or w[illegible] to know about guardianship may take the class [illegible] charge. This includes anyone who anticipates [illegible] sometime being guardian for a family member or friend, service providers, social workers, and professionals in adult protection, as well as other interested persons. However, only Partners (people who have been screened, accepted, and trained) will be eligible for matching with potential wards.

What happens after I apply? When your application is received, you will be screened. This consists of a background search, information from six references, and an interview. In order to ensure the best service for vulnerable people, screening continues during training, and during matching. You will participate in 16 hours of training, and if accepted, will have the opportunity after training to be matched with a potential ward. Partners guardians may participate in a support network, and are eligible for technical support from Catholic Family Service.

How do I get a ward? Once screened and trained, you can be matched with a potential ward. Different agencies and individuals help with matching. When someone needs a guardian and you have agreed to take the case, a petition is submitted to the court, the court proceeds with its investigation of the case, and a hearing is held. Your commitment begins when the court assigns you to the case and the papers are signed by the judge and by you.

Mary was a favorite teacher until she retired at age 72, hale, hearty and almost as young at heart as her students. She loved life. One day, out walking, Mary slipped on ice, fell hard and hit her head. She lay semi-conscious for a long time till someone found her. Although Mary recovered from exposure, her injuries were so severe that she never again regained capacity to run her own life without supervision. Today she is friends with her guardian, lives in her own home, tends her garden, and is grateful someone dependable is helping with decisions she cannot safely make herself.

Jill became incapacitated from a stroke while undergoing surgery for a heart valve problem. She now needs assistance with manyof life's functions. She needs nursing care and assistance with dressing, [illegible] work. Her guardian was able to work with Jill's family so Jill can still live in her own home with her two dogs. Her guardian arranged for home health care, cleaning services, and a part time companion who prepares meals and provides personal assistance. Jill, an artist, did not lose her ability to paint, and so does limited decorative art from her home. Her guardian has arranged with someone to sell it for her.

Barly has early stage Alzheimer's. He wanders and gets lost. He loses track of what he is doing. He can no longer count and worries all the time about his money. Marcia, his guardian, moved him into a residence where his movements are monitored. She arranged for a payee to take care of his money and pay bills. She ensures he is doing all right in his new residence and has spending money to u[illegible] the residence store. She found a ho[illegible] his pets and makes sure someone tak[illegible]rly to visit them occasionally. Barly has a companion when he goes out.

Can Make a Big Difference in Someone Else's

Dear Committee Members,
As you know, Altru Health System is a border facility in our state that provides care to both North Dakota and Minnesota patients. Our geographic location creates unique challenges related to Minnesota and North Dakota professional licensure regulations as they currently exist.
Passage of SB 2115 would enhance our ability to provide care to our patients, particularly in the area of intrastate telephonic care.
Altru Health System strongly supports passage of SB 2115.

Sincerely,
Rick Gessler, R.N.
Employment/Employee Relations Manager
Altru Health System
Grand Forks, ND

WEST RIVER HEALTH SERVICES

- JCAHO Accredited
- CAP Accredited -
Trauma Center Level IV -

WEST RIVER REGIONAL MEDICAL CENTER

WEST RIVER HEALTH SERVICES FOUNDATION

WEST RIVER AMBULANCE SERVICE

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HETTINGER, ND
58639-7530

(701) 567-4561
www.wrhs.com

TO: SB2115
HOUSE INDUSTRY BUSINESS & LABOR
REPRESENTATIVE RICK BERG, CHAIR

FROM: MELANA HOWE, RN
DIRECTOR OF PATIENT CARE SERVICES
WEST RIVER REGIONAL MEDICAL CENTER
HETTINGER, NORTH DAKOTA

DATE: MARCH 5, 2001

I am a nursing executive and work in healthcare administration at West River Regional Medical Center. Our organization provides healthcare for approximately 24,000 people in a 24,000 square mile area, covering two states. I am writing in support of Senate Bill 2115.

As a member of the Nursing Practice Committee of the ND Board of Nursing, I've followed the work of the National Council of the State Boards of Nursing. Specifically in their work with the Multistate Licensure Compact.

Our organization employs various professionals whose practice takes them into both North Dakota and South Dakota. The mutual recognition model of nurse licensure would allow a nurse to have one license (in his or her state of residency) and practice in other states, as long as that individual acknowledges that he or she is subject to each state's practice laws and discipline.

Today, in the business of providing healthcare, numerous licensed practitioners in border communities frequently find themselves crossing state lines. In our organization, we have physicians, physician assistants, nurse practitioners, nurses, lab, radiology and respiratory care techs with dual licensure. West River Regional Medical Center pays for the second license for our employees. Therefore, current practice does have a financial impact to healthcare organizations.

As I look to the future, I expect more 'crossing the state lines' because of telemedicine, telehealth, and fewer organizations covering larger geographic areas. Agencies that utilize temporary or locums staffing will increase, and multistate licensure would remove time barriers that currently exist in cases of short notice.

I urge you to support this bill as presented, as I find it proactive and practical to today's and the future healthcare environment.

Thank you.

Melana Howe

NASW
National Association of Social Workers
NORTH DAKOTA CHAPTER
P.O. Box 1775
Bismarck, ND 58502-1775
Telephone 701-223-4161
Fax Number 701-224-9824
E-Mail nasw@aptnd.com
Web Site www.aptnd.com/nasw

March 5, 2001

Chairman Berg, Vice Chairman Keiser, and Members of the House Industry, Business and Labor Committee:

My name is Connie M. Hildebrand and I appear at this hearing as Legislative Chair for the North Dakota Chapter of NASW, the National Association of Social Workers. We favor SB 2115.

The field of technology is rapidly changing the way many professions do business. Social Work is no exception. Our profession claims Mary Richmond, fellow social worker, as the original advocate of social work technology usage, for she noted the importance of the *telephone* in social work practice – way back in 1917.

Today, electronic communication technology makes direct practice and consultation a reality for those who are separated by both time and space. It is a most unusual challenge. That is why we favor SB 2115. This bill is a beginning attempt to clarify:

1. professional services rendered to an individual in this state are subject to North Dakota law, regardless of the means or mediums through which those services are provided.
2. a "foreign" or out-of-state practitioner who provides services under this section has submitted to the jurisdiction of the appropriate North Dakota professional licensing board
3. nothing prohibits a professional or occupational board from imposing conditions on "foreign" practitioners which are more restrictive than those imposed in this chapter.

This bill does not solve all the compelling social work technology issues that include credential verification, confidentiality, and privacy. Multiple ethical questions remain which will continue to challenge the social work profession in the practice of what many call, *E-therapy*, but this bill is a beginning. It clearly states that the consumer of service, if located in the state of North Dakota, will be offered the consumer protection services of the North Dakota Board of Social Work Examiners, which licenses social work professionals in our state.

We ask for a Do Pass on SB 2115.

Respectfully submitted,

Connie M. Hildebrand

Connie M. Hildebrand, LICSW
Chair, Legislative Committee, NASW-ND

NORTH DAKOTA BOARD OF NURSING

919 S 7th St., Suite 504, Bismarck, ND 58504-5881

Web Site Address: http://www.ndbon.org
Telephone # (701) 328-9777
Nurse Advocacy # (701) 328-9783
Fax # (701) 328-9785

INDUSTRY, BUSINESS, & LABOR COMMITTEE

TESTIMONY RELATED TO SB 2115

Chairperson Berg and members of the Industry Business and Labor Committee, my name is Dr. Constance Kalanek, Executive Director of the North Dakota Board of Nursing.

On behalf of the board, I wish to offer testimony in support of SB 2115 relating to the practice of a regulated occupation or profession. The focus of my testimony is on license compacts on page 4 of the bill.

- In an effort to proactively respond to this issue, the North Dakota Board of Nursing has been studying the current model of nursing licensure and has conducted a comprehensive review of the interstate compact and its implications.
- Multistate Licensure Advisory Task Force
  - Established in 1998.
  - Representatives from nursing and medical organizations, health care organizations, state government, legislators, and consumers.
  - The committee recommended to the Board of Nursing to draft legislation on licensure compacts that would include all professional and occupational boards. The minutes are attached for your review.
  - The board surveyed 32 boards, associations, and individuals for input/reaction to the licensure issue.
    - 14 responses, 7 were not opposed, 1 very interested and took no position, 1 did not support, 4 supported, and 1indicated they were neutral.
- The **INTERSTATE COMPACT** is an agreement between two or more states established for the purpose of remedying a particular problem of multistate concern.
  - This accountability is similar to the motor vehicle driver who must obey the driving laws in the state where driving occurs.

- Nearly 200 compacts in existence as of the early 1990s.

- Implementation of the multistate licensure model will proceed as individual state legislatures adopt the interstate compact and become a party to the compact.
  - Thirteen states, including South Dakota, Iowa and Nebraska have passed legislation to enact the compact for nursing regulation.
  - The board of nursing is aware of ten states that intend to address multistate licensure through rules or legislation in the next three years.
  - Issues addressed in the Compact:
    - Jurisdiction
    - Discipline
    - Information Exchange

COMPARISON OF LICENSURE

CURRENT MODEL

- Apply and pay fee to state where expect to practice.

- Practice only in state(s) where licensed; accountable for state's laws.

- Comply with state requirements.

MULTISTATE LICENSURE

- Apply and pay fee to home state.

- Practice in any state, either physically or electronically, acknowledging accountability for each respective state's laws.

- Comply with state requirements.

Individual licensed nurses are always held accountable for their actions. The nurse who practices under a multistate licensure privilege is held accountable to the state's practice act where nursing services are provided.

I have attached for your review a handout from the National Council of State Boards of Nursing entitled, Frequently Asked Questions and a list of the states that have either implemented the compact or soon will be doing so. Hopefully, this information may be useful in your deliberation of this proposed legislation.

Thank you for giving me the opportunity to provide testimony on behalf of the North Dakota Board of Nursing. The Board appreciates your willingness to consider a proactive approach to licensing practitioners in North Dakota and your support for SB 2115.

MULTISTATE LICENSURE ADVISORY COMMITTEE

September 13, 2000

10:00 – 11:00 AM

IVAN TELECONFERENCE

MINUTES

Present: Board Members None; Participants present were: Elizabeth Nichols RN, CUNEA, Grand Forks; Deb Haagenson RN, Fargo; Arnold Thomas, ND Health Care Association; David Peske, North Dakota Medical Association; Melana Howe, RN, Hettinger; Sharon Moos, RN, Executive Director of North Dakota Nurses Association; Elaine Taylor, LPN, NDLPNA; Staff: Karla Bitz RN; Linda Shanta RN; Julie Schwan, Cal Rolfson, Attorney at Law; and Constance Kalanek RN.

I. Rule-making. Cal Rolfson provided a summary of the legislative versus rule promulgation process. A videotape of Mr. Rolfson's summary is available upon request through the board office. A copy of the legislation currently in effect in Maine was reviewed and is attached. (See Sec. C-7.10 MRSA)

II. Fiscal Impact. Connie Kalanek reviewed the anticipated revenue loss for MSL participation. The potential estimated loss of revenue through renewal fee is approximately $42,050.00 and loss of endorsement fee is $8,400. This is a loss of 11% of the total budgeted income each fiscal year. The board has not projected the cost of implementation of a multistate licensure system.

III. Organizational Perspective. Melana Howe reported on the impact of MSL on the West River Health Services. The organization spends approximately $1100 each year on licensure fees for nurses. The organization pays for the second license when the nurse is employed to practice in more than one state. WRHS has a low turn over rate and have not had recruitment problems of qualified personnel.

IV. Discussion.

- The committee discussed the rule making process as it relates to multistate licensure compacts.
- A number of participants discussed the operational issues and tracking responsibilities of employers.
- Revenue loss was discussed. The board has not projected the cost of implementation of a multistate licensure system.
- Discussed drafting legislation that would be similar to the Maine document, which includes professional groups without specifying any one group.
- Discussed support from North Dakota Nurses Association and North Dakota Health Care Association for using a legislative process similar to Maine.
- Discussed the political ramifications and process related to proposing this type of legislation.

V. Recommendations

1. Present this discussion at the next board meeting on September 21-22, 2000.

VI. Adjournment. Meeting adjourned at approximately 9:50 AM.

ENGROSSED SENATE BILL 2115
House Industry, Business, and Labor Committee
March 5, 2001

Chairman Berg, members of the House Industry, Business, and Labor Committee, my name is James C. Fleming. I am an assistant attorney general working with professional and occupational boards and I am here on behalf of the Office of Attorney General Wayne Stenehjem in a **neutral** capacity to explain the provisions in Engrossed Senate Bill 2115 and to respond to any technical questions the committee may have. I have included in my testimony a section-by-section analysis of Engrossed Senate Bill 2115. For the committee's information, there was another bill introduced this session, House Bill 1150, which also provided for limited mutual recognition of professional licenses through multistate agreements or compacts. The House Judiciary Committee gave House Bill 1150 a do-not-pass recommendation, which was accepted by the House of Representatives, after learning that the Senate unanimously passed Senate Bill 2115, which is before you today.

Section One - Definitions

The most important definition in the proposed legislation is the definition of "foreign practitioner." There are two key parts to the definition. First, the practitioner must be licensed in a state or other jurisdiction which imposes requirements for licensure which are at least as stringent as the requirements imposed in this state. Second, the foreign practitioner must be in good standing in the state in which he or she is licensed and may not be the subject of a pending disciplinary action. In short, a foreign practitioner must be as competent and qualified as a North Dakota licensee before the foreign practitioner is allowed to practice his or her profession or occupation in North Dakota under the legislation, even on a temporary basis.

Section Two – Location of practice

The most frequent argument offered to justify the unlicensed delivery of professional or occupational services to North Dakota consumers via telephone or internet is that the person is providing the services from another jurisdiction. This argument is made despite the fact that the person's provision of services is not completed until those services are received by consumers in North Dakota. Under the proposed legislation, it is the location of the consumer, rather than the provider, which determines whether a profession or occupation is being practiced in this state and whether a license from a North Dakota licensing board is required.

Section Three – Indirect practice without a license

The proposed legislation clarifies that a foreign practitioner is not practicing in North Dakota when the practitioner consults directly with a North Dakota licensee. The legislation is not intended to interfere with the ability of North Dakota licensees to freely communicate with experts in other states to improve the quality of services received by North Dakota consumers. As long as the North Dakota licensee stands between the foreign practitioner and the recipient, the licensee is able to monitor the services provided by the foreign practitioner and the consumer is protected. The North Dakota licensee is required to monitor the services provided by the foreign practitioner and will be equally responsible for any deficiency in those services.

The Senate Human Services Committee added a new subsection to this section which allows foreign practitioners to provide services to a consumer in this state via telephone or internet without a North Dakota license when the practitioner-consumer relationship has been created in person in the jurisdiction in which the practitioner is licensed and the remote contacts are simply a continuation of that relationship.

Section Four – Emergency practice without a license

The premise of the bill is that minimum competence in a jurisdiction which imposes similar or more stringent requirements for licensure can be reasonably equated with minimum competence to practice in this state. In emergency situations, circumstances may result in a demand for professional or occupational services which exceeds the supply of North Dakota licensees. In such situations, the proposed legislation allows a foreign practitioner to practice in this state for up to sixty consecutive days without needing to obtain a license from the appropriate board in North Dakota. The notice requirement in the legislation ensures that the appropriate board is aware of those foreign practitioners who are taking advantage of the authority in this section. Along with the notice, the board also must receive documentation which verifies that the foreign practitioner is licensed by a jurisdiction which imposes equivalent requirements for licensure and that the practitioner is in good standing. No application is required, which eliminates the delay in obtaining board approval before responding to the emergency. The notice from the foreign practitioner is deemed to be accepted by the appropriate board unless the board denies the notice and communicates the denial to the foreign practitioner.

Section Five – Limited practice without a license

This section is intended to address sporadic practice within the state regardless of whether the services are provided over the telephone, the internet, or in person. Again, minimum competence in a jurisdiction which imposes similar or more stringent requirements for licensure can be reasonably equated with

minimum competence in this state. Unlike emergency situations, the thirty-day time period is not consecutive. An application is required to be submitted prior to engaging in practice under this section, and the bill was amended in the Senate to allow boards the time to investigate and process an application from a foreign practitioner before the practitioner may begin providing service to North Dakota consumers. The application provides important information to the appropriate board. Along with the application and the required fee, the board also must receive documentation which verifies that the foreign practitioner is licensed by a jurisdiction which imposes equivalent requirements for licensure and that the practitioner is in good standing.

Section Six – Licensure without examination

Many boards in this state currently have authority to waive any required examinations when considering an application for licensure in this state from a foreign practitioner. This section extends such authority to all boards. It also supersedes any requirement that the state in which the foreign practitioner is licensed extend similar privileges to North Dakota licensees. However, a board may still require a foreign practitioner to take an exam regarding the laws of this state and the rules established by the board.

Section Seven – License compacts

Another alternative for professional and occupational boards to authorize multistate and interstate practice of a profession or occupation is a multistate compact or agreement. This section authorizes any board to enter into an agreement with one or more other states which identifies the circumstances under which a foreign practitioner may practice in this state. A nearly identical provision was proposed in House Bill 1150.

Section Eight - Discipline

An important step in regulating interstate or multistate delivery of professional services is to hold a North Dakota licensee accountable for professional misconduct which may occur in another jurisdiction. A North Dakota licensee also may be disciplined for failing to adequately monitor the services provided by a foreign practitioner under section three regarding indirect practice without a license.

Section Nine – Jurisdiction – Service of Process

This section resolves the issues of jurisdiction and service of process which arise when a board in North Dakota attempts to discipline a foreign practitioner for conduct in this state. It also allows North Dakota consumers to hold a foreign practitioner accountable in this state for deficient services.

Section Ten – Application with other laws

The first sentence in this section ensures that a foreign practitioner who practices in North Dakota under this bill will be accountable in this state for professional misconduct or for services which are deficient. This section clarifies that the proposed legislation is intended to enable and authorize boards to allow foreign practitioners to practice in this state, but not to require boards to permit such practice when the health, safety, or welfare of North Dakota consumers justifies a prohibition on such practice. Each board is expected to determine whether to invoke the authority provided in the proposed legislation. A board is allowed to take immediate action to protect the public under this section by promulgating emergency rules.

Mr. Chairman, this concludes my testimony on Engrossed Senate Bill 2115 and I would be happy to answer any question the committee may have on the bill.

Chapter 43:Occupations and Professions of NDCC

1. abstractor
2. architects
3. barbers
4. podiatrists
5. chiropractors
6. contractors
7. dentists
8. funeral service practitioners
9. cosmotologists
10. nurses
11. optometrists
12. osteopaths
13. pharmacists
14. photographers
15. physicians and surgeons
16. plumbers
17. professional engineers
18. dental hygienists
19. practical nurses
20. oil and gas brokers
21. land serveyors
22. massage therapists
23. physical therapists
24. watchmakers
25. veterinarians
26. investigative and security services
27. detection of deception examiners
28. psychologists
29. hearing aid dealers
30. nursing home administrators
31. state board of water well contractors
32. professional soil classifiers
33. audiologists and speech language pathologists
34. electrologists and electronic hair removal technician
35. athletic trainers
36. occupational therapists
37. social workers
38. respiratory care practitioners
39. environmental health practitioners
40. dietitions and nutritionists
41. addiction counselors
42. peer assistance entity agreements
43. counselors

44. clinical laboratory personnel
45. reflexologists

Fifty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2115

Introduced by

Industry, Business and Labor Committee

(At the request of the Attorney General)

A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century Code, relating to the practice of a regulated occupation or profession.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 43 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter, unless the context indicates otherwise:

1. "Board" means a board, commission, or other agency of state government created or identified in this title to regulate a particular occupation or profession, except for the:
   a. State board of accountancy;
   b. State electrical board;
   c. North Dakota real estate appraiser qualifications and ethics board; and
   d. State real estate commission.

   "Board"also includes any agency of state government which is created or identified outside this title to regulate a particular occupation or profession if the agency elects, by administrative rule, to invoke the authority in this chapter.
2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
3. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.

4. "License" means a license, certificate, permit, or similar authorization to practice an occupation or profession which is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license which are at least as stringent as the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.
5. "Occupation or profession" means activity for which a license is required from a board or similar activity for which a license is required in another state or jurisdiction.

Location of practice of an occupation or profession. The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.

Indirect practice without a license. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license without obtaining a license from the appropriate board if the services are provided through consultation with the person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the person who is licensed by the board. Both the foreign practitioner and the person licensed by the board are responsible for the services provided under this section.

Emergency practice without a license. Upon prior written notice to the appropriate board, a foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license without obtaining a license from the board, if the services are provided for a period of time not to exceed sixty consecutive days in a calendar year and are provided in response to a disaster declared by the appropriate authority in this state. The notice provided by a foreign practitioner under this section must include documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is in good standing. A foreign practitioner who provides services under this section shall be deemed to have submitted

1 to the jurisdiction of the appropriate board and be bound by the laws of this state and the rules
2 established by the appropriate board.

3 **Limited practice without a license.** Upon prior written application to the appropriate
4 board, a foreign practitioner may provide services in this state which fall within the scope of
5 practice designated by the foreign practitioner's license without obtaining a license from the
6 board if the services are provided for no more than thirty full or partial days per year. The
7 one-year period commences on the date of receipt by the board of the written application. An
8 application from a foreign practitioner under this section must include documentation from the
9 appropriate licensing authority which identifies the requirements for licensure in that jurisdiction
10 and which confirms that the practitioner is in good standing. A foreign practitioner who provides
11 services under this section shall be deemed to have submitted to the jurisdiction of the
12 appropriate board and be bound by the laws of this state and the rules established by the
13 appropriate board. The board may require payment of a fee of twenty-five dollars or other fee
14 established by the board by administrative rule, not to exceed the higher of twenty-five dollars
15 or one-tenth of the fee for an annual license from the board, as a condition of approving an
16 application under this section. An application under this section, if accompanied by sufficient
17 documentation and any required fee, will be deemed approved unless denied by the board. If
18 an application under this section is denied, the foreign practitioner must immediately cease
19 providing services under this section and may not resume providing services under this section
20 until after a subsequent application is approved.

21 **Licensure without examination.** Notwithstanding any other provision of law, a board
22 may issue a license, without examination, to any foreign practitioner who has practiced the
23 occupation or profession in which the practitioner is licensed for at least two years prior to
24 submitting the application to the board, or for any other period of time provided in this title or
25 established by the board by administrative rule, and who meets the other requirements
26 established by the board for a license. Notwithstanding any other provision of law, a board is
27 not prohibited from issuing a license under this section to a foreign practitioner if the state or
28 jurisdiction in which the individual is licensed does not extend similar privileges to individuals
29 licensed in this state.

30 **License compacts.** A board may establish, by administrative rule, procedures for
31 foreign practitioners to practice in this state pursuant to written compacts or agreements

1 between the board and one or more other states or jurisdictions or pursuant to any other
2 method of license recognition that ensures the health, safety, and welfare of the public. Any
3 compact or agreement by a board does not become binding on this state until implemented by
4 administrative rules under this section.

5 **Discipline.** In addition to other grounds for disciplinary action authorized by law, a
6 person who holds a license issued by a board may be subject to disciplinary action in this state
7 for:

8 1. Failing to adequately review services provided by a foreign practitioner under this
9 chapter;
10 2. Unauthorized practice of the person's occupation or profession in another state or
11 jurisdiction, including the delivery of services by a licenseholder in this state to a
12 recipient of services in another state or jurisdiction;
13 3. Acts occurring in another state or jurisdiction which could subject the person to
14 disciplinary action if those acts occurred in this state; or
15 4. Acts occurring in another state or jurisdiction which could subject the person to
16 disciplinary action if the person held a license in that state or jurisdiction.

17 **Jurisdiction.** A foreign practitioner who provides services in this state without a license
18 as permitted in this chapter shall be deemed to have consented to the jurisdiction of this state
19 and to have appointed the secretary of state as the foreign practitioner's agent upon whom
20 process may be served in any action or proceeding against the practitioner arising out of the
21 practitioner's activities in this state.

22 **Application with other laws.** This chapter supplements and does not repeal the
23 authority provided to each board. Nothing in this chapter prohibits a board from imposing
24 conditions on foreign practitioners by administrative rule or compact which are more restrictive
25 than those imposed in this chapter, if those restrictions are enacted to ensure the health, safety,
26 and welfare of the public. Rules under this section may be adopted as emergency rules under
27 chapter 28-32. Nothing in this chapter alters the scope of practice of a particular occupation or
28 profession as defined by law.

18209.0200

FIRST ENGROSSMENT

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2115

Introduced by

Industry, Business and Labor Committee

(At the request of the Attorney General)

A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century Code, relating to the practice of a regulated occupation or profession.

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   a. State board of accountancy;
   b. State electrical board;
   c. North Dakota real estate appraiser qualifications and ethics board;
   d. State real estate commission;
   e. Secretary of state with respect to contractor licensing;
   f. State board of medical examiners; and
   g. State board of dental examiners.

   "Board"also includes any agency of state government which is created or identified outside this title to regulate a particular occupation or profession if the agency elects, by administrative rule, to invoke the authority in this chapter.
2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.

3. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.
4. "License" means a license, certificate, permit, or similar authorization to practice an occupation or profession which is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license which are at least as stringent as the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.
5. "Occupation or profession" means activity for which a license is required from a board or similar activity for which a license is required in another state or jurisdiction.

Location of practice of an occupation or profession. The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.

Indirect practice without a license.

1. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through consultation with the person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the individual who is licensed by the board. Both the foreign practitioner and the individual licensed by the board are responsible for the services provided under this subsection.
2. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through a remote means and are a continuation of an existing relationship between the

1 foreign practitioner and the individual receiving the services which was formed in
2 the state or jurisdiction in which the foreign practitioner is currently licensed.
3 **Emergency practice without a license.** Upon prior written notice to the appropriate
4 board, a foreign practitioner may provide services in this state which fall within the scope of
5 practice designated by the foreign practitioner's license and by this title without obtaining a
6 license from the board, if the services are provided for a period of time not to exceed sixty
7 consecutive days in a calendar year and are provided in response to a disaster declared by the
8 appropriate authority in this state. The notice provided by a foreign practitioner under this
9 section must include verified documentation from the appropriate licensing authority which
10 identifies the requirements for licensure in that jurisdiction and which confirms that the
11 practitioner is licensed and in good standing in that jurisdiction and any other information
12 requested by the board. A notice provided under this section, if accompanied by sufficient
13 documentation, is deemed to be accepted unless denied by the board. If a notice under this
14 section is denied, the foreign practitioner immediately shall cease providing services under this
15 section and may not resume providing services until after a successful appeal of the board's
16 decision under chapter 28-32 or after an application for privileges under this section is reviewed
17 and approved by the board.
18 **Limited practice without a license.** Upon prior written application to the appropriate
19 board, a foreign practitioner may provide services in this state which fall within the scope of
20 practice designated by the foreign practitioner's license and by this title without obtaining a
21 license from the board if the services are provided for no more than thirty full or partial days per
22 year. The one-year period commences on the date the written application is approved by the
23 board. An application from a foreign practitioner under this section must include verified
24 documentation from the appropriate licensing authority which identifies the requirements for
25 licensure in that jurisdiction and which confirms that the practitioner is licensed and in good
26 standing in that jurisdiction and any other information requested by the board. The board may
27 require payment of a fee of twenty-five dollars or other fee established by the board by
28 administrative rule, not to exceed the higher of twenty-five dollars or one-tenth of the fee for an
29 annual license from the board, as a condition of approving an application under this section.
30 **Licensure without examination.** A board may issue a license, without examination, to
31 any foreign practitioner who has practiced the occupation or profession for which the

1 practitioner is licensed at least two years prior to submitting the application to the board, or for
2 any shorter period of time provided in this title or established by the board by administrative
3 rule, and who meets the other requirements for a license. A board is not prohibited from
4 issuing a license under this section to a foreign practitioner if the state or jurisdiction in which
5 the individual is licensed does not extend similar privileges to individuals licensed in this state.
6 This section does not prohibit a board from requiring a foreign practitioner to take an
7 examination regarding the laws of this state and the rules established by the board.
8 **License compacts.** A board may establish, by administrative rule, conditions and
9 procedures for foreign practitioners to practice in this state pursuant to written compacts or
10 agreements between the board and one or more other states or jurisdictions or pursuant to any
11 other method of license recognition that ensures the health, safety, and welfare of the public.
12 Any compact or agreement by a board does not become binding on this state until implemented
13 by administrative rules under this section.
14 **Discipline.** A foreign practitioner's authority to practice an occupation or profession
15 under this chapter is subject to denial, probation, suspension, revocation, or other form of
16 discipline for the same grounds as individuals licensed by the appropriate board in this state. In
17 addition to other grounds for disciplinary action authorized by law, a person who holds a license
18 issued by a board may be subject to disciplinary action in this state for:
19 1. Failing to adequately review services provided by a foreign practitioner under this
20 chapter;
21 2. Unauthorized practice of the person's occupation or profession in another state or
22 jurisdiction, including the delivery of services by a licenseholder in this state to a
23 recipient of services in another state or jurisdiction;
24 3. Acts occurring in another state or jurisdiction which could subject the person to
25 disciplinary action if those acts occurred in this state; or
26 4. Acts occurring in another state or jurisdiction which could subject the person to
27 disciplinary action if the person held a license in that state or jurisdiction.
28 A disciplinary action under this section against a foreign practitioner is subject to
29 chapter 28-32.
30 **Jurisdiction - Service of process.** A foreign practitioner who provides services in this
31 state without a license as permitted in this chapter shall be deemed to have consented to the

1 jurisdiction of this state and the appropriate board, to be bound by the laws of this state and the
2 rules established by the appropriate board, and to have appointed the secretary of state as the
3 foreign practitioner's agent upon whom process may be served in any action or proceeding
4 against the practitioner arising out of the practitioner's activities in this state.
5 Service on the secretary of state of any process, notice, or demand is deemed personal
6 service upon the foreign practitioner and must be made by filing with the secretary of state an
7 original and two copies of the process, notice, or demand, with the filing fee of twenty-five
8 dollars. A member of the legislative assembly or a state or county officer may not be charged
9 for filing any process, notice, or demand for service. The secretary of state shall immediately
10 forward a copy of the process, notice, or demand by registered mail, addressed to the foreign
11 practitioner at the address provided by the filer.
12 **Application with other laws.** This chapter applies notwithstanding any other limitation
13 in state law on the practice of an occupation or profession. This chapter supplements and does
14 not repeal the authority provided to each board. Nothing in this chapter prohibits a board from
15 imposing conditions on foreign practitioners by administrative rule or compact which are more
16 restrictive than those imposed in this chapter, if those restrictions are enacted to ensure the
17 health, safety, and welfare of the public. Rules under this section may be adopted as
18 emergency rules under chapter 28-32. Nothing in this chapter alters the scope of practice of a
19 particular occupation or profession as defined by law.

2001 SENATE HUMAN SERVICES

SB 2115

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2115

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 29, 2001

Tape Number	Side A	Side B	Meter #
1		X	19.8
2	X		
February 6, 2001 3	X		23.5
Committee Clerk Signature			

Minutes:

The hearing was opened on SB 2115.

JAMES FLEMING, Assistant Attorney General, appeared in a neutral capacity to explain the bill. (Written testimony) SENATOR LEE: Can boards opt in or out of this bill? MR. FLEMING: The Attorney General gave boards the option of being included or excluded. Those wishing to opt out now would require a legislative amendment.. SENATOR MATHERN: Where would I be if I were in Washington DC and communicating with my therapist in Florida on my computer through Internet? MR. FLEMING: You are physically located in Washington, DC and that is the regulatory authority if the councilor in Florida gives you questionable advice. SENATOR MATHERN: Why don't we just let the boards have the authority and not list any of them in statute. MR. FLEMMING: This is giving the boards a choice. It is not a mandate. SENATOR FISCHER: WHAT constitutes as emergency as in making emergency rule making. MR. FLEMING: The legislation is intended to declare these kinds of rules to be an emergency.

The bill offers the boards the authority when some part of this act conflicts with the health, safety or welfare of the public. SENATOR KILZER: Do other states have this in code? MR. FLEMING: This bill is not modeled in any other state's law. It is modeled after a national model. SENATOR KILZER: How many boards do we have in state? MR. FLEMMING: Roughly 40-45 boards. SENATOR LEE: If one of the four boards wants in after looking at this they would have to be legislated in.

DR. CONSTANCE KALANEK, Executive Director of ND Board of Nursing, supports bill. (Written testimony) SENATOR MATHERN: Is there any features of the other bill that you've noted that you would want in this bill. DR. KALANEK: I'll speak to HB 1150, it contains 95% of what is in this bill so it would be acceptable to us if this bill were to pass. Our bill contains the same language. SENATOR LEE: How does this affect current educational requirements? DR. KALANEK: The state implement of the model has added enabling language. Some of the practitioners say in Texas are nor required to graduate from an approved program but rather have the knowledge and then sit for the exam. The rule process would start and then meeting additional requirements.

TOM TUPPA, Executive Sec, Board of ND Examiners Social Work, supports bill. This is patterned after the model of the Social Workers Board. It gives the board authority to protect the consumers in the state of ND from practice outside of state. SENATOR MATHERN: How would the board discipline someone in Florida. MR. TUPPA: The Attorney General's office provides legal council to the board of examiners and they would be the one to process that complaint. That individual would probably not be able to practice in the state of ND.

CONNIE HILDEBRAND, Legislative chair for ND Chapter of NASW, the National Association of Social Workers, support bill SB 2115. (Written testimony) SENATOR KILZER: Are there frequent referrals to E-therapy? MS. HILDEBRAND: Yes, people are practicing on the web. SENATOR POLOVITZ: What is E-therapy? MS. HILDEBRAND: The practice of therapeutic social work on electronic means.

JOHN OLSON, ND Board of Medical Examiners and ND Board of Dental Examiners. The board of Medical Examiners want to opt out of this bill and I talked to the dental examiners and they wanted to opt out as well, but I don't see them in the room. I prepared an amendment to opt them out but I cannot speak for them so I will present it for our board. This bill is a unisex bill and one size does not fit all. We licensee foreign doctors and this has become a very complex subject. There are things that do not work for the Board of Medical Examiner in this bill.

CLARA JENKINS presented testimony from Al Jaeger, Secretary of State. (Written testimony) Offers amendments.

ROLF SLETTEN: Medical board is not covered by rules and regulations. Our is all in statute.

The hearing was closed on SB 2115.

MR. FLEMMING: Rulemaking authority is available. If a board wants to take authority they should take themselves out of it. SENATOR MATHERN: This issue needs to be clarified regarding profession. I would like to ask for an amendment from Attorney General's office.

February 6, 2001, Tape 3, Side A, Meter 23.5

The committee discussion was resumed. Mr. Flemming presented amendments to Senator Mathern, who explained them. SENATOR MATHERN moved the amendments. SENATOR ERBELE seconded the motion. Discussion was held. Roll call vote carried 6-0 . SENATOR

MATHERN moved a DO PASS AS AMENDED. SENATOR ERBELE seconded it. Roll call vote carried 6-0. SENATOR LEE will carry the bill.

FISCAL NOTE

Requested by Legislative Council

12/26/2000

Bill/Resolution No.: SB 2115

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There is no anticipated fiscal impact for this bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathy Roll	**Agency:**	Office of Attorney General
Phone Number:	701-328-3622	**Date Prepared:**	01/04/2001

Date: 2/6/01

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

Senate HUMAN SERVICES Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendments

Motion Made By Sen Mathern Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson	✓		Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Jim Fleming

Roll Call Vote #: 2 Date: 2/6/01

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

Senate HUMAN SERVICES Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen Mathern Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson	✓		Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) _____ No _____

Absent _____

Floor Assignment Sen Lee

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

REPORT OF STANDING COMMITTEE

SB 2115: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2115 was placed on the Sixth order on the calendar.

Page 1, line 12, remove the second "and"

Page 1, line 13, replace the second period with ";

e. Secretary of state with respect to contractor licensing;

f. State board of medical examiners; and

g. State board of dental examiners."

Page 2, line 15, after the period insert:

"1."

Page 2, line 16, after "license" insert "and by this title"

Page 2, line 20, replace the first "person" with "individual" and replace the second "person" with "individual"

Page 2, line 21, replace "section" with "subsection"

Page 2, after line 21, insert:

"2. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through a remote means and are a continuation of an existing relationship between the foreign practitioner and the individual receiving the services which was formed in the state or jurisdiction in which the foreign practitioner is currently licensed."

Page 2, line 24, after the first "license" insert "and by this title"

Page 2, line 27, after "include" insert "verified"

Page 2, line 29, after "is" insert "licensed and", after "standing" insert "in that jurisdiction and any other information requested by the board", and after "A" insert "notice provided under this section, if accompanied by sufficient documentation, is deemed to be accepted unless denied by the board. If a notice under this section is denied, the foreign practitioner immediately shall cease providing services under this section and may not resume providing services until after a successful appeal of the board's decision under chapter 28-32 or after an application for privileges under this section is reviewed and approved by the board."

Page 2, remove line 30

Page 3, remove lines 1 and 2

Page 3, line 5, after the first "license" insert "and by this title"

Page 3, line 7, remove "of receipt by the board of" and after "application" insert "is approved by the board"

Page 3, line 8, after "include" insert "verified"

Page 3, line 10, after "is" insert "licensed and", after "standing" insert "in that jurisdiction and any other information requested by the board", and remove "A foreign practitioner who provides"

Page 3, remove lines 11 and 12

Page 3, line 13, remove "appropriate board."

Page 3, line 16, remove "An application under this section, if accompanied by sufficient"

Page 3, remove lines 17 through 20

Page 3, line 21, replace "Notwithstanding any other provision of law, a" with "A"

Page 3, line 23, replace "in" with "for" and remove "for"

Page 3, line 24, replace "other" with "shorter"

Page 3, line 26, remove "established by the board" and replace "Notwithstanding any other provision of law, a" with "A"

Page 3, line 29, after the period insert "This section does not prohibit a board from requiring a foreign practitioner to take an examination regarding the laws of this state and the rules established by the board."

Page 3, line 30, after the second comma insert "conditions and"

Page 4, line 5, after the period insert "A foreign practitioner's authority to practice an occupation or profession under this chapter is subject to denial, probation, suspension, revocation, or other form of discipline for the same grounds as individuals licensed by the appropriate board in this state."

Page 4, after line 16, insert "A disciplinary action under this section against a foreign practitioner is subject to chapter 28-32."

Page 4, line 17, after "**Jurisdiction**" insert "**- Service of process**"

Page 4, line 18, after "state" insert "and the appropriate board, to be bound by the laws of this state and the rules established by the appropriate board,"

Page 4, after line 21, insert "Service on the secretary of state of any process, notice, or demand is deemed personal service upon the foreign practitioner and must be made by filing with the secretary of state an original and two copies of the process, notice, or demand, with the filing fee of twenty-five dollars. A member of the legislative assembly or a state or county officer may not be charged for filing any process, notice, or demand for service. The secretary of state shall immediately forward a copy of the process, notice, or demand by registered mail, addressed to the foreign practitioner at the address provided by the filer."

Page 4, line 22, after the period insert "This chapter applies notwithstanding any other limitation in state law on the practice of an occupation or profession."

Renumber accordingly

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2115

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2115

House Industry, Business and Labor Committee

❑ Conference Committee

Hearing Date March 5, 2001

Tape Number	Side A	Side B	Meter #
1	X		36.1
		X	-13.47
Committee Clerk Signature			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Jim Fleming:*Assistant Attorney General* **Written testimony** sponsoring bill.

Rep M. Klein: What exactly does foreign mean?

Fleming: Anyone not from North Dakota. Canada,Vietnam,Minnesota.

Rep Thorpe: With this language, where is the process handled?

Fleming: In our state.

Vice-Chairman Keiser: What are the fees?

Fleming: Any foreign entity is charger $25.

Vice-Chairman Keiser: Doesn't this create an unfair playing field and financial problems?

Fleming: This is just saying that foreign applications shouldn't take as long.

Rep Ruby: What boards would be affected?

Fleming: Anyone from social workers, nurses, private investigators, etc.

Rep Froseth: Why are these seven exempt?

Fleming: They asked specifically to be exempt.

Berg: What are the pros and cons of this legislation?

Fleming: The pros are the interstate provision, that it gives flexibility to limited practice and it increases simplicity in a case of emergency. The cons are the limited practice and the fee issue.

Vice-Chairman Keiser: Are we providing an asset at our expense?

Fleming: The testing exemptions help protect us.

Rep N. Johnson: Without this, what's permissible?

Fleming: Currently the law is unclear.

Dr. Constance Kalanek:(8.54)*ND Board of Nursing* **Written testimony** in support.

Chairman Berg: Disciplinary action, what about the fee?

Kalanek: That is a major concern. A cease and assist order would be issued. Their state would take action on their license and our state would take action against their privilege. The legal fees would be our loss.

Connie Hildebrand:(17.8) *NA Social Workers* **Written testimony** supporting bill.

Vice-Chairman Keiser: Civil liability, where is the question?

Hildebrand: The law is unclear in electronic and in new technology.

John Boyce:*Veterinarian* I support this bill but I wish it could include animals.

Howard Anderson:*Executive Board Pharmacy* Support bill. Tools are here to take care of problems and expense isn't often an issue in a thirty-day lease.

Cal Rolfson: (31.3) *Nursing* Support bill. There are 12,000+ nurses registered here.There are two areas helping discipline action and permits of cost. We would work with the other states to cover costs.

Tom Tupa: *ND Board of Social Workers* We support this bill.

Cliff Keller: *State Board of Engineers and Surveyors*

We support this bill but would like to be exempt so as not to compromise time with accuracy. The Internet is not a problem and neither is discipline. In terms of emergency we usually have a longer period of time.

Rep M. Klein: At first you didn't want to be excluded?

Keller: Correct but with the added amendments it complicates our registration.

Chairman Berg: We'll close the hearing.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2115(B)

House Industry, Business and Labor Committee

❑ Conference Committee

Hearing Date March 7, 2001

Tape Number	Side A	Side B	Meter #
3		X	14.5-24.5
Committee Clerk Signature			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Rep Severson: I move a do pass.

Rep M. Klein: I second.

Rep Ruby: I move to amend out the State Board of Engineers and Surveyors.

Rep Jensen: I second.

Amendments failed.

Date: 3-7-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2115

House Industry, Business and Labor Committee

Legislative Council Amendment Number

Action Taken amendment

Motion Made By Ruby Seconded By Jensen

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg		✓	Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein		✓
Rep. Mary Ekstorm		✓	Rep. Myron Koppang		✓
Rep. Rod Froelich			Rep. Doug Lemieux		✓
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson		✓	Rep. Dale C. Severson		✓
			Rep. Elwood Thorpe		✓

Total (Yes) 6 No 8

Absent 0

Floor Assignment

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

failed

Date: 3-9-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2115

House Industry, Business and Labor Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Severson Seconded By M. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser		✓	Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich			Rep. Doug Lemieux	✓	
Rep. Glen Froseth	✓		Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 13 No 1

Absent 1

Floor Assignment Rep M. Klein

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

REPORT OF STANDING COMMITTEE (410)
March 9, 2001 8:40 a.m.

Module No: HR-41-5158
Carrier: M. Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2115, as engrossed: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed SB 2115 was placed on the Fourteenth order on the calendar.