

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1293

2007 HOUSE HUMAN SERVICES

HB 1293

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1293

House Human Services Committee

Check here for Conference Committee

Hearing Date: Jan 16, 2007

Recorder Job Number: 1197 and 1198

Committee Clerk Signature

Judy Dechock

Minutes:

Chairman Price: Open the hearing on HB 1293.

Representative George Keiser, District 47: I would encourage you to support this bill .I will let Mr Cichy explain the bill to you.

Joseph Cichy, ND Dental Association: We are in support of the bill and is motivated by the oral health coalition. No opposition from the Dental Association with minor amendments.

Max Morse, EdD, Med, I serve as a Community Mobilization Specialist for Community Healthcare Association of the Dakotas (CHAD): See attached testimony. Please note the high lighted amendments, and the fact sheet attached.

Dave Zentner, I am representing my self, I am a former Medicaid Director for 12 years. We need some protection, especially the Medicaid children teeth. The bill deals with availability with proper training to provide this particular service.

Carla Kelly, registered Dental Hygienist: See testimony attached. I also have testimony of Dr Michael Goebel, Pediatric Dentist. Age 7 is the cut off age; however fluoride is good for all ages. We like to get these teeth protected immediately. We would like the first molars covered. You can apply fluoride many times with out harm to the teeth. The varnish will go into the teeth, and is not enough that is provided in our water.

Kathy Mangsku reads testimony for Kerri Erickson, President of the ND Dental Hygienist' Association. See attached.

JoAnn Brager Director of West River Head Start: See attached testimony. We need to help break the poverty level cycle.

Maggie Price, Director of Medical Services Division for Department of Human Services: See attached testimony. We would have no problem with you extending the age to 10 until all permanent teeth are in. We encourage people to do public health by RN; she would be able to apply the fluoride.

Bruce Levi, Executive Director of ND Medical Association: See attached testimony. Also we have attached amendments we have proposed. Under the amendment, only a physician or assistant can apply. Should be under the Board of Medical Association.

John Olson, ND Board of Medical Exams: I serve the council, and we support Mr Levi's amendments.

Rita Sommers, Representing ND State Board of Dental Examiners: I just wanted to say we do not support Mr. Levi's amendments. We support the bill.

Chairman Price: Any further opposition? If not we will close the hearing on HB 1293.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1293

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1237

Committee Clerk Signature

Judith Schock

Minutes:

Chairman Price: Let's take a quick look at HB 1293. Representative Porter do you want to work on those amendments?

Representative Porter: The question comes up from the Medical Association of whether or not you should be putting in requirements for others. If you agree with the philosophy you also need to do the same for nurses, and practitioners. The Board of dental examiners thinks that it is a dental procedure. They want the exemption and the language written inside of the dental practices act. The Medical Association disagrees. I would guess the board of nursing would agree with the Medical Association. The decision really comes down to separate amendments. What ever the committee wishes.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1293

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1502

Committee Clerk Signature

Judy Debeck

Minutes:

Chairman Price: Take HB 1293 out and let's discuss it.

Representative Porter: The State Board of Nursing has a note attached. A couple things that were brought to our attention is the language on line 11 that states who is applying topical fluoride varnish to an individual needs to be moved up to the other piece in line 7-10. The other piece of concern to the committee was the age bracket. The testimonies seemed to say that 10 would be better. There are still molars coming in for a 10 year old, and that is the purpose of this treatment while the teeth are breaking through. Another concern brought up by the medical association should the board of medical examiners inside of their section that regulates physicians just have the topical fluoride varnish language in place into their section of the century code. The next question that was asked of the board of nursing if that same concern exists in the board of nursing. They came back with this amendment which says to me that they do not have the same concern. I think we need to add the language licensed practical nurse so not just limiting it to just a Registered nurse or advanced practice nurse.

Chairman Price: We will get it out of here as soon as you can get it together.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1293

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1583

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: Take out HB 1293.

Representative Porter: goes through the proposed amendments relating to the engrossment.

See attached. When it says the Board it means the Board of Medical Examiners. I will go through section 2, all of the language is written into the dental back to back. If the board of dentistry comes back and says you need to do a 1 hour program in order to do this than that is what they need to do. It is still the physician or dentist that says they can or can not do it.

The committee discusses the language in the amendments. The Board of Nursing has the authority over a RN or LPN. The age of application was discussed with the committee, and it was not necessary to include that in the language. The dental group has looked this over and okayed it.

Bruce Levi, The language in the first part of the unofficial amendment is the language we offered in the committee hearings, to take out physician's assistance to be put under the board of Medical Examiners. After the hearing I worked to try to come up with an amendment that would deal with the issue and contacted number physicians in terms of how this worked. I found out from them that it really is not the physicians that are doing it. It is the physician that is supervising individual's weather it is a RN or who ever it was in the past. We took out the

physicians assistant as well, and added LPN. We than, put everyone under the supervision of a physician or licensed dentist.

Representative Weisz: asks for clarification on section 2. Who checks on if the Nurse has completed the training? Would it be the physician and or dentist?

Mr. Levi: Yes the licensed dentist is to ensure that they are trained.

Representative Porter moves the amendments, seconded by **Representative Hatlestad**.

Chairman Price asks for other discussion. The verbal vote was unanimous. **Representative Uglem** moves a do pass as amended, seconded by **Representative Damschen**. The vote was 12 yeas, 0 nays and 0 absent. **Representative Porter** will carry the bill to the floor.

House Amendments to HB 1293 (70512.0101) - Human Services Committee 01/23/2007

Page 1, line 1, replace "two new subsections" with "a new section to chapter 43-17 and a new subsection"

Page 1, line 2, after the first "to" insert "the application of topical fluoride varnish and"

Page 1, after line 4, insert:

"SECTION 1. A new section to chapter 43-17 of the North Dakota Century Code is created and enacted as follows:

Topical fluoride varnish. A licensed physician or physician assistant may apply topical fluoride varnish to an individual in accordance with rules adopted by the board."

Page 1, line 5, replace "Two new subsections" with "A new subsection"

Page 1, line 6, replace "are" with "is"

Page 1, line 7, after the first underscored comma insert "advanced practice registered nurse, licensed practical nurse,"

Page 1, line 8, after "is" insert "applying topical fluoride varnish to an individual who is at least six months old and less than ten years old and is" and after "physician" insert "or licensed dentist"

Page 1, line 9, after the first underscored comma insert "advanced practice registered nurse, licensed practical nurse,"

Page 1, remove lines 11 through 14

Renumber accordingly

Date: 6/2
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1293 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken More amendments.

Motion Made By Rep Porter Seconded By Rep Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep.

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

REPORT OF STANDING COMMITTEE

HB 1293: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1293 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "two new subsections" with "a new section to chapter 43-17 and a new subsection"

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Page 1, line 9, after the first underscored comma insert "advanced practice registered nurse, licensed practical nurse,"

Page 1, remove lines 11 through 14

Renumber accordingly

2007 SENATE HUMAN SERVICES

HB 1293

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1293

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-28-07

Recorder Job Number: 4077, 4079

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee opened the hearing on HB 1293 relating to the application of topical fluoride varnish and exemptions to the regulation of dentists; and to declare an emergency.

Representative George Keiser (District #47) introduced HB 1293. This bill allows licensed physicians or licensed physician assistants to apply topical fluoride varnish to an individual in accordance with the rules adopted by the board. Section 2 lists a group of health care professionals acting under the direct supervision of a physician approved in section 1 or a licensed dentist provided those people have completed a training program.

Senator Dever – Are all these professionals prohibited now.

Rep. Keiser – I believe they are.

Dave Zentner – testified on his own behalf as a former Medicaid Director. He gave some history on this bill. In an attempt to provide additional services to kids who they knew were not getting dental care for one reason or another, he was asked if he was willing to reimburse certain providers, primarily nurses, who would be delivering this in a public health setting. The fluoride varnish is designed to protect the teeth of especially these young kids. (Meter 8:45)

Technically he was breaking the law and he explained why. That is what created this bill – to permit these types of providers to provide the service and be able to bill for it.

Senator Warner – Why is it limited on the upper end to 10 year olds?

Mr. Zentner said they were primarily looking at the younger kids. Originally they were looking at from 6 months to 6 six years of age. The House amended the bill to go up to 10. It's probably most effective in that younger age group.

Senator Dever – Is it safe to assume that permission is not necessary to be included in the bill?

Mr. Zentner – It would be like any other service that a child would receive. If a parent does not want to have it, they certainly would have the right to say no to it.

Carla Kelly (Dental Hygienist) testified in support of HB 1293. First, she read testimony from Dr. Michael Goebel a pediatric dentist (attachment #1). Then she presented her testimony (attachment #2). She had a sample of the fluoride varnish which she passed around for the committee members to see.

Senator Warner asked if there needed to be surface preparation to apply – if it works better on clean teeth.

Ms. Kelly – Yes, but sill works. They recommend painting it one day and not brushing it off until the next day. The longer it stays on the tooth, the more fluoride that goes into the surface of the tooth. She explained the process.

Senator Dever – asked about the long term effectiveness.

Ms. Kelly said if it were her, she would extend it. The second large molars come in between the age of 11 and 13. Teeth are mostly susceptible to decay within the first couple of months of erupting. (Meter 19:40) She talked about that some dentists won't see really young children or children with really bad decay and the need to go to specialists.

Senator J. Lee asked if she would be interested in seeing it go to age 14 or no age limit at all.

Ms. Kelly said her personal opinion was that the second molars come in about 12 years old. She would like to see those covered.

Senator Warner said it looked like they were looking at the qualifications of the providers, not the age of the persons. He didn't know why they would impose any limits.

Ms. Kelly thought it might have to do with reimbursement.

Senator Dever – Dentists can do it at any age?

Ms. Kelly – Yes, and so do hygienists under the direction of a dentist. This would be probably more for a public health setting or clinic where kids might be going for their inoculations on a regular basis but maybe don't have a dental home. Then the nurses, physicians, or physicians assistant in the clinic could apply that if they see a need.

Senator Dever – Does toothpaste with fluoride in it do the same thing?

Ms. Kelly – It does, but you have to use it really regularly every day several times. The same thing with water, you get enough fluoride in water. This is a very concentrated dose and because it sticks on the teeth you have that going into the tooth the whole time it's there. It has been found that several weeks after applying this type of concentrated fluoride it's still at a higher concentration in the surface of the tooth.

Joe Cichy (Executive Director of the ND Dental Association) testified in support of HB 1293.

Section 1 would allow physician and physician's assistants to apply it. They would be governed under their own board, the Board of Medical Examiners. The other folks would be governed under the Board of Dental Examiners. The only concern they have is that people don't see this as solving all their problems. They do need to find a dental home.

Senator Heckaman – asked if lines 11-17 was the whole wording.

Mr. Cichy explained that it went into the exception to needing a dental license to do certain procedures. These folks would be excepted out of the requirements.

Senator J. Lee (Meter 27:40) referred to a proposed amendment she received from an advance practice RN. (Attachment #3)

Senator Warner – Asked if the registered nurses would be regulated by the Board of Dentistry? (Meter 28:40) Discussion on who would regulate the advance practice RN.

Laurel Nybo (Director, BECEP Head Start) testified in support of HB 1293. (Attachment #4)

She added to her testimony that Emmons, Logan, Kidder, and McIntosh counties are considered medically underserved which includes dental with the exception of the city of Linton. This is very important for the rural families as well as families in urban areas.

Erik Elkins (Assistant Director, Medical Services Division, DHS) testified in favor of HB 1293. (Attachment #5)

Senator J. Lee asked what his comments were about the age 10.

Mr. Elkins – I believe that was developed through the people who thought that would be the best age limit, do the most good for that particular set of children. There are no federal regulations regarding Medicaid that limit it to a certain age limit.

Senator J. Lee – Is this in the budget since I don't see a fiscal note?

Mr. Elkins – We did not make a fiscal note for this because we consider preventative services to be a cost savings measure.

Connie Kalanek – (Executive Director, Board of Nursing) She said they prepared the proposed amendment. Their attorney along with input from the advance practice nurses who were concerned about the language in the House version put together this amendment. The intent is that the board, as described in the fifth line, is the board of dental examiners. The board of nursing does not approve programs related to dental care. If there needs to be a clarification, they are open to that.

Senator J. Lee – We could just enter the phrase "of dental examiners" and that would be ok?

Ms. Kalanek – She said that would be fine. She added a note on the scope of practice for the advance practice nurse -- this would allow the advance practice nurse in any setting to provide this service whether they are rural or urban, in a clinic or not, as long as it is approved within their scope of practice.

Senator Heckaman asked where they would get the supplies.

Ms. Kalanek deferred and Ms. Kelly later answered that they are available directly from the dental companies.

Senator Warner – asked where, on the continuum of nursing training, you have nurses with stand alone practices.

Ms. Kalanek – The advance practice nurse is a master's prepared nurse. Typically, someone who would be doing this procedure would be a family nurse practitioner or a pediatric nurse practitioner. They are licensed independently by the board.

Senator Warner – This is considered to be a prescription?

Ms. Kalanek – No, this would be considered to be part of the scope of practice.

There was no opposing or neutral testimony.

The hearing on HB 1293 was closed.

JOB #4079

Senator J. Lee opened HB 1293 for discussion.

Senator Warner – All the discussion on HB 1293 was on Medicaid. There isn't a clear distinction within Medicaid on what a medical service is and what a dental service is. Often in private practice there is a distinction made between what is medical insurance and what is dental insurance. Not everybody carries both. Would it be an issue that providers could not be reimbursed under a medical insurance for what appears to be a dental procedure.

Senator J. Lee -- Wouldn't it be like going in for your flu shot? You either have your insurance with you or your money.

Senator Dever – Part of the problem is medical assistance pays for dental but private health insurance doesn't.

Rita Sommers (NDSBDE) said, in her research, she contacted the oral health coalition and was told that they could not bill for that dental procedure. The Board of Dental Examiners objection was that it would be in these other statutes and because of the AG opinion ruling that it was a dental procedure; the perception was that it should be in Chapter 43-38. Based on that information the ND SBDE decided to not turn it into any more of a turf for billing. Their concern was having the children receive this service.

Senator Dever asked if the Board also deals with any violations.

Ms. Sommers – I can't imagine what a violation would be.

Senator Dever – If somebody didn't have the training.

Ms. Sommers – Then they would have to answer to our board if it was that group, the groups that are putting their own statute in place would answer to their own board.

Senator Dever – But this is under your board.

Ms. Sommers -- Not all the groups will be addressed under our board.

Senator Erbele moved to accept the proposed amendment.

Senator Dever seconded the motion.

Roll call vote 6-0-0. Amendment accepted.

Senator Warner felt the age limit was a medical decision not a political decision. He moved to further amend by deleting the age references.

Senator Heckaman seconded the motion.

There was a short discussion on if there would be a billing issue.

Roll call vote 6-0-0. Amendment accepted.

Senator Erbele moved a Do Pass on HB 1293 as amended.

Senator Dever seconded the motion.

Roll call vote 6-0-0. Carrier is Senator Heckaman.



Handwritten signature and date: 3-1-7

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1293

Page 1, line 1, replace the second "a" with "two" and replace "subsection" with "subsections"

Page 1, line 9, replace "A" with "Two" and replace "subsection" with "subsections"

Page 1, line 10, replace "is" with "are"

Page 1, line 11, remove "advanced practice registered nurse."

Page 1, line 13, remove "who is at least six months old and less than"

Page 1, line 14, remove "ten years old"

Page 1, line 15, remove "advanced practice registered nurse."

Page 1, after line 17, insert:

"To an advanced practice registered nurse licensed under chapter 43-12.1 who is applying topical fluoride varnish to an individual and is acting within the scope of practice of the advanced practice registered nurse and has successfully completed a training program approved by the board."

Renumber accordingly

Date: 2-28-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1293

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken amendment

Motion Made By S.E Seconded By S.D.

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 2-28-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1293

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Further amend / eliminate age restrictions

Motion Made By SW Seconded By SH

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 2-28-07

Roll Call Vote #: 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1293

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number 70512.0201 Title .0300

Action Taken DP / amended

Motion Made By Sen. Erbele Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Heckaman

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

REPORT OF STANDING COMMITTEE

HB 1293, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1293 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the second "a" with "two" and replace "subsection" with "subsections"

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Page 1, after line 17, insert:

"To an advanced practice registered nurse licensed under chapter 43-12.1 who is applying topical fluoride varnish to an individual and is acting within the scope of practice of the advanced practice registered nurse and has successfully completed a training program approved by the board."

Renumber accordingly

2007 TESTIMONY

HB 1293

HOUSE BILL No. 1293

Good Morning, Madame Chairperson Price, and House Committee Members.

My name is Max Morse, EdD, MEd, and I serve as a Community Mobilization Specialist for the Community HealthCare Association of the Dakotas [CHAD], as a member of the North Dakota Oral Health Coalition, and am a registered lobbyist in North Dakota [#312].

A number of the members of the North Dakota Oral Health Coalition are present at this hearing today and may be offering separate testimony.

The North Dakota Oral Health Coalition would like to convey its support of House Bill No. 1293 for the application of Fluoride Varnish to children in North Dakota. This initiative would allow dental practice act exemptions to apply to a registered nurse, registered dental hygienist, or registered dental assistant acting under direct or general supervision of a physician; or, to a physician, physician's assistant, or nurse practitioner who is applying topical fluoride varnish to a child who is at least six months old and fewer than seven years of age. This exception applies only to those who have successfully completed a training program approved by the board.

The North Dakota Oral Health Coalition wishes to amend House Bill No. 1293 by seeking clarification without complication, and by asking simply that the same language appear in both subsections, lines 7-10, and lines 11-14 of the House Bill 1293 [see yellow-highlighted/arrowed copy provided], in order to convey the intent that the health professions listed may be applying topical fluoride varnish to an individual who is at least six months old and less than seven years old, as specified.

The opportunity to speak in support of House Bill No. 1293 before the North Dakota 60th [2007] Legislative Assembly is appreciated.

FACT SHEET: House Bill No. 1293

Application of Fluoride Varnish

Together we share a community voice seeking to increase the number of protective varnish applications provided to children in North Dakota

This initiative would allow dental practice act exemptions to apply to a registered nurse, registered dental hygienist, or registered dental assistant acting under direct or general supervision of a physician; or, to a physician, physician's assistant or nurse practitioner who is applying topical fluoride varnish to a child who is at least six months old and fewer than seven years of age. This exception applies only to those who have successfully completed a training program approved by the board.

Topical Fluoride Varnish treatment is one of the most effective ways to prevent, slow down, arrest and even reverse early cavities. Fluoride Varnish is simply applied with a small brush and hardens immediately upon contact with saliva as an interaction to prevent tooth decay.

The Target Population will include children in North Dakota of ages from six months through six years, as defined for Medicaid reimbursement purposes.

Facts:

1. Only 3% of low-income children under age 8, and less than 25% of children overall have received dental sealants [2007 National Conference of State Legislatures].
2. Tooth decay [dental caries, a communicable disease] is the most common chronic disease of childhood, affecting half of the children by middle childhood. Children lose an estimated 52 million hours from school due to dental problems and related care dental caries that can be prevented if intervention starts early. ["Building a Children's Oral Health Safety Net" A Policy Brief March 2003].
3. There are approximately 52,000 children in North Dakota within the age 0-6 years [US Census Bureau 2000].

Informative Website Links:

1. For babies: http://www.ivanhoe.com/channels/p_printStory.cfm?storyid=13823
2. American Dental Association:
www.ada.org/prof/resources/topics/science_fluoride_varnish.asp

States active in the application of fluoride varnish:

Minnesota, Nevada, North Carolina, California, Iowa, Ohio, Utah, Kentucky, Wisconsin, Idaho, Virginia, Kansas, Washington, and Oregon.

Testimony

HB1293

Tuesday, January 16, 9:30 am

*Same testimony
given to
Senate.*

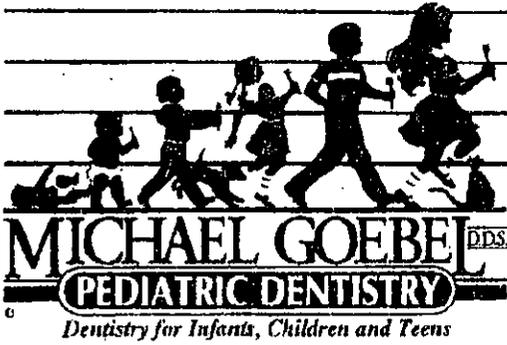
Good morning Chairman Price and members of the House Human Services Committee. My name is Carla Kelly. I am a Registered Dental Hygienist, with 21 years of private practice experience and 10 years of public health experience. I am here to provide testimony in support of House Bill 1293.

Tooth decay (cavities) is the most commonly seen disease in the world. Tooth decay is a contagious bacterial infection caused by the transfer of bacteria from one person to another. It is a multi-factorial disease that causes not only pain, but also has economic consequences in terms of missed work, school, etc. The best thing about dental decay is that it **can** be prevented. The worst thing about it is that we are not doing enough to bring about this prevention. Education, along with brushing and flossing the teeth is not always enough.

Fluoride varnish has been shown to be effective in both private and public health settings as a means to reduce the tooth decay. Fluoride varnish is a topical fluoride that is easy to apply. It is a cost effective way to decrease, delay and in some instances, reverse tooth decay.

Many children in North Dakota have a medical home, but for a variety of reasons, do not have a dental home. Many of our low income children do not have dental homes. Allowing fluoride varnish to be applied to these children in a non-typical setting such as a clinic, school, or public health unit, would ensure these children to have the benefit of a concentrated, prescription strength fluoride treatment until a time when the child does find a dental home.

This concludes my testimony. Thank you for the opportunity to be here today. I would be happy to answer any questions you may have.



1
read by Carla Kelly

Testimony from Dr. Michael Goebel, Pediatric Dentist

Dear House Human Services Committee:

The facts are:

1. Fluoride varnish is proven effective in dental disease prevention.
2. Many children that would benefit from fluoride therapy aren't getting access to dental care.
3. Unit dosing fluoride varnish has no more health risks than toothpaste.
4. Fluoride varnish is easily applied by a trained health professional.
5. The more children that get this preventative therapy the better.

I am in strong support of Bill #1293.

Sincerely yours,

Michael Goebel, D.D.S.



**North
Dakota
Dental
Hygienists'
Association**

HB 1293

Madam Chairman, members of the committee, my name is Kerri Erickson from Grand Forks, President of the North Dakota Dental Hygienists' Association. I speak on behalf of the association in favor of this bill because it will allow underserved children to have access to an important preventive procedure. Dental decay is an infectious, but preventable disease. Fluoride varnish has been proven to rebuild areas of beginning decay and strengthen enamel.

The reference to registered dental hygienists in this bill will allow us to provide this service immediately without any waiting periods that the other health professionals would have in order to complete the fluoride varnish application training.

Registered dental hygienists are educated and trained in applying fluoride and many already are applying fluoride varnish in dental practices.

Testimony
HB 1293
House Human Services Committee
Tuesday, January 16, 2007

Good morning Chairperson Price and House Committee members. I am here to testify in support of HB 1293. My name is JoAnn Brager and I am the Director for West River Head Start and we serve 168 children and families in Morton, Grant, Oliver and Mercer Counties. The children enrolled in Head Start are three or four years old and their family meet the 100% Federal Poverty Guidelines. (A family of four may have a gross annual income of no more than \$20,000.) All 14 North Dakota Head Start programs are full and most have waiting lists. We work closely with families to break the cycle of poverty; child and adult education, health (dental, physical and mental), social services, etc.

North Dakota's Head Start programs serve 2,196 children and their families. Helping 100% of the families find a dental home is just one of the many regulations we have. According to the latest Program Information Report for North Dakota,

- ✓ 97.64% of all Head Start children received dental exams within the first 90 days of enrollment;
- ✓ 24.11% needed dental treatment;

West River Head Start employs a Registered Nurse to help meet the needs and organize the health requirements set forth by the federal regulations. Fluoride varnish is a preventative measure that could help prevent tooth decay in these small children. This bill would potentially improve the oral health of many of the children enrolled in North Dakota's Head Start programs.

Thank you, I would be happy to answer any questions that you may have.

Testimony
House Bill 1293 – Department of Human Services
House Human Services Committee
Representative Clara Sue Price, Chairman
January 16, 2007

Chairman Price, members of the Human Services Committee, I am Maggie Anderson, Director of the Medical Services Division for the Department of Human Services. I appear before you today to support House Bill number 1293.

The North Dakota Medicaid program had planned to reimburse additional practitioners for the topical application of fluoride varnish for children. These additional practitioners included physicians, nurse practitioners, physician assistants, and registered nurses (under the direct supervision of a physician, except in a Public Health Clinic). In September 2005, the Department of Human Services was notified of an opinion of the Attorney General's office indicating that North Dakota law does not allow licensed professionals, other than dentists and dental hygienists (under the supervision of a licensed dentist) to apply fluoride varnish.

North Dakota Medicaid recipients continue to experience difficulties accessing dental services. Because this bill would allow other practitioners: registered nurses, registered dental hygienists, registered dental assistants, physicians, physician assistants, or nurse practitioners to apply fluoride varnish, it would help ensure that children six months to six years would have access to this very important, preventative service.

I would be happy to answer any questions that you may have.

Testimony on HB 1293
House Human Services Committee
January 16, 2007

Madam Chairman Price and members of the committee, I'm Bruce Levi, Executive Director of the North Dakota Medical Association. The Medical Association is the professional membership organization for North Dakota's physicians, resident and medical students.

The North Dakota Medical Association is supportive of the effort to ensure access by individuals to topical fluoride varnish, particularly our state's medical assistance beneficiaries. However, the Association does not support the bill in its current form because regulation of physician practice is properly within the jurisdiction of the North Dakota State Board of Medical Examiners, not the Board of Dentistry.

HB 1293 has resulted from a letter opinion of the Attorney General, which concluded that only licensed dentists and licensed dental hygienists may apply dental fluoride. The letter opinion also states that physicians are not authorized by state law to apply dental fluoride varnish.

While the letter opinion interprets the Dentist Practice Act in chapter 43-28, it does not appear to consider the Physician Practice Act in chapter 43-17, including the broad definition of the "practice of medicine" contained in the Physician Practice Act. The Physician Practice Act defines the practice of medicine to include persons who:

- are engaged in the diagnosis or treatment of diseases or injuries of human beings; or
- suggest, recommend, or prescribe any form of treatment for the intended relief of or cure of any physical or mental ailment of any person [NDCC 43-17-01(3)].

The Physician Practice Act includes a provision that exempts from the Physician Practice Act those dentists practicing their profession when properly licensed [NDCC 43-17-02(3)]. The Dentist Practice Act in turn defines the practice of dentistry and exempts physicians who practice dentistry "in emergency cases."

In the view of the North Dakota Medical Association, HB 1293 does not recognize the appropriate role of the North Dakota State Board of Medical Examiners. Physicians are licensed by the North Dakota State Board of Medical Examiners

and are subject to the jurisdiction of the North Dakota State Board of Medical Examiners. Physician assistants are also licensed and regulated by the North Dakota State Board of Medical Examiners. With respect to the application of topical fluoride varnish, we believe the regulation of physicians and physician assistants should be set by the North Dakota State Board of Medical Examiners.

We offer proposed amendments to place physicians and physician assistants under the proper jurisdiction of the North Dakota State Board of Medical Examiners for purposes of the application of topical fluoride varnish. With the amendments, NDMA would not object to the bill.

**North Dakota Medical Association
Proposed Amendments to HB 1293
House Human Services Committee
January 16, 2007**

Page 1, line 1, after "enact" insert "a new section to chapter 43-17 and"

Page 1, line 2, after the first "to" insert "the application of topical fluoride varnish by physicians and physician assistants and"

Page 1, after line 4 insert:

"SECTION 1. A new section to chapter 43-17 of the North Dakota Century Code is created and enacted as follows:

Topical fluoride varnish. A licensed physician or physician assistant may apply topical fluoride varnish to an individual under any conditions that may be imposed by the board."

Page 1, line 5, replace "1" with "2"

Page 1, line 11, remove "physician, physician's assistant, or"

Page 1, line 13, remove "physician, physician's assistant, or"

Page 1, line 15, replace "2" with "3"

Renumber accordingly



NORTH DAKOTA BOARD OF NURSING

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

Telephone: (701) 328-9777 Fax: (701) 328-9785

Web Site Address: <http://www.ndbon.org>

Workplace Impairment Program: (701) 328-9783

House Human Services Committee

North Dakota Board of Nursing

Chairman Price and members of the Committee, thank you for the opportunity to provide information regarding the HB 1293 relating to exemptions to the regulation of dentists. The Board supports this legislation to provide dental care to young children.

- **Section 1. Amendment.**

The Board would respectfully request a change in the language on:

page 1, line 7- insert Advanced Practice Registered Nurse;

insert line 8 "who is applying topical fluoride varnish to an individual who is at least six months old and less than seven years old and is acting under the direct.....etc.

Line 11 – delete “or nurse practitioner”

Thank you for the opportunity to provide information on HB 1293. Please feel free to contact me with questions if needed.



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House Human Services Committee

North Dakota Board of Nursing

*redone by
Intern*

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Line 11 – delete “or nurse practitioner”

Thank you for the opportunity to provide information on HB 1293. Please feel free to contact me with questions if needed.

HB 1293

Section 2. Strike advanced practice registered nurse in line 11 and 15.

New Section 3. A new subsection to section 43-28-02 of the North Dakota Century Code is created and enacted as follows:

To an advanced practice registered nurse licensed under NDCC 43-12.1 who is applying topical fluoride varnish to an individual who is at least six months old and less than ten years old and is acting within the scope of practice of the advanced practice registered nurse and has successfully completed a training program approved by the board.

Section 3-4

Testimony
HB 1293
Senate Human Services Committee
Wednesday, February 28, 2007

Good morning Madam Chair and Senate Committee members. I am here to testify in support of HB 1293. My name is Laurel Nybo and I am the Director for the BECEP Head Start and we serve 231 children and families in Burleigh, Kidder, Logan, Emmons, and McIntosh Counties. The children enrolled in Head Start are three or four years old and their family meet the 100% Federal Poverty Guidelines. (A family of four may have a gross annual income of no more than \$20,000.) All 14 North Dakota Head Start programs are full and most have waiting lists. We work closely with families to break the cycle of poverty; child and adult education, health (dental, physical and mental), social services, etc.

North Dakota's Head Start programs serve 2,196 children and their families. Helping 100% of the families find a dental home is just one of the many regulations we have. According to the latest Program Information Report for North Dakota,

- ✓ 97.64% of all Head Start children received dental exams within the first 90 days of enrollment;
- ✓ 24.11% needed dental treatment;

Head Start at BECEP employs 2 Registered Nurses to help meet the needs and organize the health requirements set forth by the federal regulations. Fluoride varnish is a preventative measure that could help prevent tooth decay in these small children. This bill would potentially improve the oral health of many of the children enrolled in North Dakota's Head Start programs.

Thank you, I would be happy to answer any questions that you may have.

Testimony
House Bill 1293 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
February 28, 2007

Chairman Lee, members of the Senate Human Services Committee, I am Erik Elkins, Assistant Director for the Medical Services Division, Department of Human Services. I appear before you today to support House Bill number 1293.

The North Dakota Medicaid program had planned to reimburse additional practitioners for the topical application of fluoride varnish for children. These additional practitioners included physicians, nurse practitioners, physician assistants, and registered nurses (under the direct supervision of a physician, except in a Public Health Clinic). In September 2005, the Department of Human Services was notified of an opinion of the Attorney General's office indicating that North Dakota law does not allow licensed professionals, other than dentists and dental hygienists (under the supervision of a licensed dentist) to apply fluoride varnish.

North Dakota Medicaid recipients continue to experience difficulties accessing dental services. Because this bill would allow other practitioners: registered nurses, registered dental hygienists, registered dental assistants, physicians, physician assistants, or nurse practitioners to apply fluoride varnish, it would help ensure that children six months to ten years would have access to this very important, preventative service.

I would be happy to answer any questions that you may have.

NDLA, S HMS

From: Lee, Judy E.
Sent: Monday, February 26, 2007 4:04 PM
To: NDLA, S HMS
Subject: FW: Amendment to 1293
Attachments: APRN changes.doc

Mary - Please print out copies of the attachment for each binder. Thanks!

From: Connie Kalanek [mailto:ckalanek@ndbon.org]
Sent: Monday, February 26, 2007 3:13 PM
To: Rising
Cc: Lee, Judy E.
Subject: RE: Amendment to 1293

Hi Cheryl, I revised the amendment- see attached. I have no idea if someone would be interested or available to present the amendment. I will forward it to Senator Lee and attend the hearing.

*Constance B. Kalanek PhD RN
 Executive Director
 ND Board of Nursing
 701-328-9781
 Fax 701-328-9785*

From: Rising [mailto:scottdriving@earthlink.net]
Sent: Thursday, February 22, 2007 5:09 PM
To: Connie Kalanek
Subject: Re: Amendment to 1293

Hi Connie, this looks ok, I know Gwen will be gone and away from computer for the next 10 days. I will not be able to get away at 9am on 2/28, maybe Karen Rohr or someone else would be available as an advance practice nurse to sit in. thanks Cheryl Rising

-----Original Message-----

From: Connie Kalanek
Sent: Feb 22, 2007 11:04 PM
To: scottdriving@earthlink.net, gtwitzel@utma.com
Cc: jrydell80@hotmail.com
Subject: Amendment to 1293

Hi Cheryl and Gwen, As was discussed last week, Brian Bergeson, Special Assistant Attorney General reviewed HB 1293 and suggested the attached amendment. I have also forwarded this proposal to Community Health Care, the sponsor of this legislation. Please let me know your thoughts. The hearing is 2/28 at 9:00. It might be helpful for an APRN to be in attendance. How are chances? Connie

*Constance B. Kalanek PhD RN
 Executive Director*

2/26/2007

HOUSE BILL NO. 1293

A BILL for an Act to create and enact a new section to chapter 43-17 and a new subsection to section 43-28-02 of the North Dakota Century Code, relating to the application of topical fluoride varnish by physicians and physicians assistants and exemptions to the regulation of dentists; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

“**SECTION 1.** A new section to chapter 43-17 of the North Dakota Century Code is created and enacted as follows:

Topical fluoride varnish. A licensed physician or physician assistant may apply topical fluoride varnish to an individual under any conditions that may be imposed by the board.”

SECTION 2. A new subsection to section 43-28-02 of the North Dakota Century Code is created and enacted as follows:

To a registered nurse, advanced practice registered nurse, licensed practical nurse, registered dental hygienist, or registered dental assistant who is applying topical fluoride varnish to an individual who is at least six months old and less than ten years old and is acting under the direct or general supervision of a physician or licensed dentist if the registered nurse, advanced practice registered nurse, licensed practical nurse, registered dental hygienist, or registered dental assistant has successfully completed a training program approved by the board.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Proposed Amendments- HB 1293
UNOFFICIAL

Page 1, line 1, after "enact" insert "a new section to chapter 43-17 and" and replace "two new subsections" with "a new subsection"

Page 1, line 2, after the first "to" insert "the application of topical fluoride varnish by physicians and physician assistants and"

Page 1, after line 4 insert:

"**SECTION 1.** A new section to chapter 43-17 of the North Dakota Century Code is created and enacted as follows:

Topical fluoride varnish. A licensed physician or physician assistant may apply topical fluoride varnish to an individual under any conditions that may be imposed by the board."

Page 1, line 5, replace "1" with "2" and replace "Two new subsections" with "A new subsection"

Page 1, line 6, replace "are" with "is"

Page 1, line 7, after the first underscored comma insert "advanced practice registered nurse, licensed practical nurse,"

Page 1, line 8, after "is" insert "applying topical fluoride varnish to an individual who is at least six months old and less than ten years old and is" and after "physician" insert "or licensed dentist"

Page 1, line 9, after the first underscored comma insert "advanced practice registered nurse, licensed practical nurse,"

Page 1, remove lines 11 through 14

Page 1, line 15, replace "2" with "3"

Renumber accordingly