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2007 HOUSE HUMAN SERVICES

HB 1327

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1327

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 24th 2007

Recorder Job Number: 1752

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: Open the hearing on HB 1327

Representative Dwight Wrangham, with district 8: The time has come for this bill. We are more and more aware of benefits of complimentary and therapies. It insures that common sense, if there is no harm, how can it be bad?

Richard Hammond, I am here for myself: See attached testimony.

Chairman Price: Anyone else in favor of this bill? If not is there anyone in opposition?

Duane Houdek, representing the ND State Board of Medical Examiners: See attached testimony.

Dave Peske, Representing the ND Medical Association: We agree with the Board of Medical Examiners, and we encourage a do not pass.

Representative Kaldor: The question would relate to the Board of Medical examiners. What are Medical definitions of continued pattern of inappropriate care? Would you elaborate on how you make that determination?

Mr. Houdek: When complaints come to the Board of Medical Examiners they are assigned an investigative panel which must include at least 5 positions. The determination is there basic fund medicine as to whether a standard of care is appropriate and within ND medical

standards. It is a case by case determination. There certainly can be types of care that would not be considered to be inappropriate practice. There have often been bills for acupuncture, but I don't know of any cases that have been brought against an acupuncturist. We have had some complaints from patients who have had chelation therapy.

Chairman Price: Any other opposition? If not we will close the hearing on HB 1327.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1327

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2087

Committee Clerk Signature

Judith Schock

Minutes:

Chairman Price: Let's take out HB 1327. What would the committee like to do? Chelation therapy is a - it cleans your blood. It is a prescribed and excepted remedy for having metal poisoning.

Representative Kaldor: I am curious about the effect of this legislation for other therapies.

Representative Porter moves a do not pass, seconded by **Representative Weisz**. The vote is 10 yeas 1 nay and 1 absent. **Representative Pietsch** to carry to the floor.

REPORT OF STANDING COMMITTEE

HB 1327: Human Services Committee (Rep. Price, Chairman) recommends DO NOT PASS (10 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1327 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1327

Comments Supporting House Bill No. 1327

**Richard Hammond - 701-223-5126
Bismarck, ND**

My name is Richard Hammond and I support this bill as necessary guidance for the State Board of Medical Examiners in their operations as a regulatory board. This legislation has become necessary because the State Board of Medical Examiners has simply strayed too far from its stated mission. The Board's published mission statement says:

"The Board's mission is to protect the public's health, safety and welfare by regulating the practice of medicine, thereby ensuring quality health care for the citizens of this state."

There is nothing in this mission statement that allows the Board to go beyond its stated mission to protect the public's health, safety, and welfare. The Board has over the years exceeded its authority by attacking physicians who offer alternative therapies, forming an improper partnership with the North Dakota Medical Association to promote their economic causes, and by working for the economic interests of the major medical facilities within the state. This bill has been presented to the legislature in previous sessions. The time has come to pass this bill.

As a citizen, I have the right to make the decision which medical treatment or option, that I will accept. Physicians have a right to give a patient advice, not orders. A patient is free to accept or reject that advice. I have been taking EDTA Chelation for the past 11 + years after having a heart attack. I am doing just fine. I have a right to continue taking chelation therapy and reject some of the costly, painful, and ineffective mainstream alternatives available. The medical establishment's objection to alternative therapies is based solely on economics. An open-heart bypass operation can cost \$50,000 or more with a hospital stay of usually less than one week. This is a real cash cow for the major medical centers and the bypass surgeons. In order to understand the motivation of the Board of Medical Examiners and the North Dakota Medical Association we have to follow the money. It is truly a sad day for the citizens of the State of North Dakota when a state board places the economic interests of a powerful special interest group ahead of the needs and rights of the citizens of the state.

In a previous legislative session, a physician presented misleading testimony on an earlier version of this bill. This physician claimed that chelation therapy was somehow dangerous and presented a false list of supposed dangers. After the previous hearing, I went to the State Library and obtained a copy of the taped committee discussion of the bill. Listening to the committee discussion was a

very disappointing experience for me. It was as though the committee members did not hear any of the testimony given by citizens who attended the hearing. The committee chairperson made a comment that she was going to vote against the bill because she did not believe that chelation therapy worked. It was clearly explained at the hearing that the bill was about each citizen's right to freely choose a form of treatment rather than having their choices limited by the medical establishment. I will not interfere with anybody's right to choose to have open-heart bypass. Nobody has the right to make that decision for me, nor to interfere with my decision to select any alternative treatment.

The goal of the medical establishment is to limit the availability of alternative therapies as much as possible. They will testify that chelation therapy is available within the state and take the position, so "why is this legislation necessary". There is only one physician in the state who is providing chelation therapy to his patients. Other doctors in the state are interested in providing that treatment but have simply been afraid to do so because of the heavy-handed tactics used by the State Board of Medical Examiners.

As legislators, you are aware that our government is based on a balance of powers between the three branches of government so that no one branch can become too powerful without being checked by the other two branches. This was done because those who formed our government had a clear understanding that power corrupts. It is simply human nature, a fact of life - power corrupts. That is why when you, the legislature, grant any kind of power and authority to the various boards, commissions, and political subdivisions, you have a responsibility to go back, to check, and to monitor how that power and authority is being used. When there is a finding that any grant of power and authority is being misused, it is the responsibility of the legislature to specify necessary changes to stop that abuse. In this case, the power granted to the Board Of Medical Examiners to protect the public's health, safety, and welfare, has been subverted by the board who is increasingly using its authority to further the economic interests of the major medical centers and the physicians who most profit by them. This bill is necessary to refocus the Board of Medical Examiners on their original assigned mission.

The Board of Medical examiners has a close and inappropriate relationship with the North Dakota Medical Association. This close relationship is an unacceptable conflict of interest.

As a citizen and a taxpayer, I am concerned about the power and the degree of influence that special interest groups have obtained at all levels of government. Most often this influence is used for the benefit of these special interest groups at the expense of citizens. At the national level, we have some very sobering examples of excessive power and influence that special interest groups have gained over the government. For example; The prescription drug bill was bought and paid for by the pharmaceutical industry. The new bankruptcy bill was

bought and paid for by the banking and credit card industry. The banks and credit card companies did not even appear and testify before the senate committee for the bill because they made the necessary deals to assure passage of the bill behind closed doors, and prior to any committee hearing. Unknown energy executives who were invited to the White House to draft the national energy bill. Citizen's representatives were not invited to participate in the writing of that bill. Even today, we do not know who was invited to the White House to craft the bill. As a citizen, I am deeply concerned about this trend and believe that we have a similar situation here with the North Dakota Medical Association and their opposition to this bill. The increase in power and influence of special interest groups is one symptom of the decline of our democracy. This decline is happening because the majority of citizens do not understand the fundamentals of democracy and do not accept their duty to stay informed.

It is a mystery to me to understand the policy of the legislature in creating and staffing a number of its regulatory bodies and the various boards and commissions who's duty is to protect the citizens of the state. All of us are familiar with the public service commission. We certainly would be concerned if we were to discover that half the members of the public service commission were employees of the telephone company and the other half of the commission were employees of MDU. We would all recognize a conflict of interest problem with that hypothetical situation. Then why do we see the exact opposite with the other regulatory boards that are set up to protect citizens? Presently, we have lawyers in charge of the attorney's disciplinary committee. We have engineers in charge of the Board of Registration for Professional Engineers. And we have medical doctors in charge of the Board of Medical examiners. In all these boards, we have the fox guarding the chicken coop. These are appointed boards which means that citizens have no input with respect to who serves on these boards. The Board of medical examiners consists of 12 members. Ten of these members are medical doctors and only two of these members are citizens. This means that we have a maximum of two members on the board who potentially do not have a conflict of interest. Of course, they will act in their own economic interest. As long as no one will stand up and challenge their use of their power and authority, they will continue to stretch the limits of their authority, at the expense of the citizens of the state.

The medical association is a powerful and wealthy political force both in this State and the nation. My concern is that after this hearing, we citizens will go home or back to work and the Medical association lobby will step in with their full time, paid, professional lobbyists and twist arms of each individual representative and senator to get their agenda preserved. It is interesting is to review the records of campaign contributions of this organization. One cannot tell from their donations if they lean to the political left or the political right. They simply give campaign donations to both sides. For example, in 2006, they gave \$1,000 to the North Dakota Republican Party and at the same time gave \$250.00 to the

Democratic NPL House Caucus. In 2002, they gave \$1000 to Rick Clayburgh's congressional campaign and at the same time gave \$500.00 to his opponent, Earl Pomeroy's congressional campaign. This organization does not have any convictions one way or another. They are simply buying influence for their own economic interests.

In summary please consider the following with respect to House bill 1327.

1. The citizens of the state support this bill.
2. This bill is revenue neutral - it costs the state nothing
3. This bill does not place any restrictions on any citizens. The defeat of this bill will, in effect, place restrictions on the citizens by limiting their alternative medical treatment options available.
4. This bill does not force any type of treatment on any citizens. If this bill is defeated, citizens will be forced to accept only the more invasive and expensive treatments allowed by the medical establishment.
5. The only opposition to this bill is one special interest group - The North Dakota Medical Association. We all need to be aware of their motivation, which is not related to the health and safety of the state's citizens.

I request that this bill be given a "do pass" recommendation.

**HOUSE HUMAN SERVICES COMMITTEE
HB NO. 1327**

**TESTIMONY OF DUANE HOUDEK
NORTH DAKOTA STATE BOARD OF MEDICAL EXAMINERS**

JANUARY 24, 2007

Madam Chairman, members of the Committee, my name is Duane Houdek. I represent the North Dakota State Board of Medical Examiners as its executive secretary. On behalf of the Board, I am testifying this morning in opposition to HB No. 1327.

When this bill was last introduced, in the 2003 legislative session, my predecessor testified that it then had been before the legislature six times. So, we are now at number seven.

This bill is a danger to the public. It is intended to sanction the use of chelation therapy for a variety of diseases, including cardiovascular disease, for which it has no proven effectiveness. Chelation therapy is an intravenous infusion of a chemical called EDTA. It is used for lead, or heavy metal poisoning, and for that use is an acceptable medical therapy.

We have one practitioner in the state, Dr. Brian Briggs, who uses this therapy. Dr. Briggs' license to practice medicine has been revoked in Minnesota, California and Illinois; suspended for a year in North Dakota; and he has been excluded indefinitely from the Medicare program.

With the exception I mentioned, chelation therapy is not a recognized medical therapy, it is not paid for by insurance companies and its proponents—the American College for Advancement of Medicine—have entered into a consent decree with the Federal Trade Commission to stop advertising it as effective for atherosclerosis.

The following entities specifically have found that chelation therapy has never been proven to be effective for blood vessel disease: The American Heart Association; the Food and Drug Administration; the American College of Physicians; the National Heart, Lung, and Blood Institute, of the National Institutes of Health; the American Medical Association and the American College of Cardiology.

This bill would do more harm than sanction chelation therapy—it would apply to any unproven or dangerous practice. To say that a doctor may not be disciplined, or an unsafe practice stopped, until there is “demonstrable physical harm to a patient” means that the state would have to stand by until someone really got hurt before it could step in to stop an experimental, unproven, practice.

It would also mean that patients could be charged thousands of dollars for some experimental therapy that did them absolutely no good—and may in fact cause them to forego beneficial help—and the state could do nothing about it.

I urge the committee to kill this bill, as six legislative assemblies before you have done.

I would be glad to try to answer any questions you may have.