

2009 HOUSE HUMAN SERVICES

HB 1176

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1176

House Human Services Committee

Check here for Conference Committee

Hearing Date: **January 13, 2009**

Recorder Job Number: 6888

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing of 1176.

Rita Sommers, executive director of the ND State Board of Dental Examiners, testified in favor of the bill. **(Attachment 1)** Her testimony included suggested amendments to the bill.

Representative Damschen: In the disciplinary actions, is there a specified time this must be acted upon to make the determination?

Sommers: We don't have any time limits.

Chairman Weisz: This section having to do with the general supervision, what kind of procedures do you envision for specifically for supervision?

Sommers: Right now the only procedure that must be done under direct supervision is the administration of local anesthesia.

Maija Beyer, representing the ND Dental Hygienists' Association, testified in favor of the bill. **(Attachment 2)**

Joe Cichy, representing the ND Dental Association, testified in support of HB 1176 particularly in regard to the supervision provision. It is part of the comprehensive plan that ND oral health coalitions put together for this legislative session. We are pleased the Board of Dental Examiners did include in their bill. This will the dental team the flexibility it needs to

provide care through the Caremobile. It will also enable a hygienist in nursing homes to provide care for those patients. It also opens an avenue to allow the ND Health Department to conduct a sealant program to serve at risk children. This is all done within the purview of the dentist. We are very supportive of this bill.

Opposition to HB 1176:

Jack McDonald, representing the ND Newspapers Association and ND Broadcasters

Association, testified in opposition to the bill. We oppose just a bit of this bill. On page 11, lines 23, 24, & 25, is what I think is a bad precedent to take. The records of the Board with a list licensed dentists are public record and must be open to public inspection is deleted. We don't think that's a good move at this time. The object of the professional licensing board is to protect the consumers and ND citizens. One of the ways to do that is to have their records open. They should be very specific on which records will be closed. On page 20, lines 1 – 3, we think the object of any licensing or disciplinary proceedings is to protect the public and here they are going to be closed until the board starts proceedings. We think there is value in that when someone has a complaint against a dentist it is public record.

Representative Conrad: How do other licensing boards handle this?

McDonald: It varies. There is no uniform way. There are some boards where all complaints are open from the get go. Others are closed until the board proceeds with disciplinary action. Each board has their own rules. I think the majority of them are open. Even if there is no disciplinary taken for whatever reason and there are several complaints against the dentist, I think the public should know. This is true for all professions.

Representative Conrad: Lawyers? What about them?

McDonald: Those complaints are closed—by the Supreme Court, not by state law.

Sommers: I would like to clarify for the Committee. . . We took out the section on page 11 because that is in another section of the Century Code. On page 17 (20), the reason this came forward is that many complaints that come before the board are frivolous and the board does not believe it is in the best interest of the profession to have that person's name slandered when the complaint has no merit. It does protect that person until the board decides if they will move forward with the complaint and at that time the records would now be open. We did research other boards to see how they handled it. We are not doing this to hide information.

Representative Damschen: How do you determine if a complaint has merit? Who does?

Sommers: If laws are broken or any administrative rules are broken, the complaint has merit.

Representative Damschen: If the board makes that determination it could be addressed in a reasonable amount of time.

Sommers: They can make that determination in one meeting as soon as the complaint comes before the board. They meet four times a year unless something is very urgent.

Representative Porter: How many complaints are handled by the board in an average year and how many are dismissed without merit or are moved forward when an infraction or violation has taken place.

Sommers: We don't get that many complaints. I would say our average is maybe 20 and of those there is probably 30% - 50% that are dismissed without merit. Perhaps they are referred to peer review. A lot of the complaints we receive are fee disputes which we do not handle. A lot of complaints are "he said - she said" and we have no proof so we have nowhere to go with complaint and can't take any action. When we put this together we tried to model it after the medical association. They have two investigative panels and they keep

those records confidential for the very same purposes. People's reputation and livelihoods are on the line.

Chairman Weisz closed the hearing of HB 1176.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1176

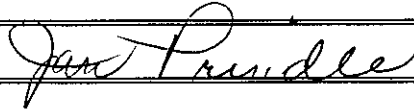
House Human Services Committee

Check here for Conference Committee

Hearing Date: **January 14, 2009**

Recorder Job Number: 7028

Committee Clerk Signature



Minutes:

Chairman Weisz opened discussion of HB 1176. I just talked to my dentist and he didn't seem quite comfortable with it. We do have some suggested amendments. The amendments are basically housekeeping in nature. The bill isn't, but the amendments are.

Representative Holman: I'm not clear on inefficiency as compare to incompetency.

Chairman Weisz: It is one thing to be inefficient and not necessarily unqualified to practice. If you are incompetent that has the meaning of being unfit to practice the profession.

Representative Frantsvog: The last amendment, page 18, line 13, I'm not sure what they have in mind.

Representative Porter: If you are going to have a crown fixed, molded or done at laboratory, you can't go to the laboratory directly. You need to go to the dentist first and the dentist will get you in touch with the proper laboratory people. If the laboratory wants to get in touch with you say for color, the dentist says its okay for you to go to the laboratory.

Representative Porter: I move the amendments.

Representative Conrad: Second.

A voice vote was taken: The amendments carried.

Chairman Weisz: We now have the amended bill before us, what are the Committee's wishes.

Representative Uglem: I move **Do Pass as Amended**.

Representative Holman: I **Second**

Representative Conrad: Did we deal with the issue of the open records?

Chairman Weisz: No, they didn't get back to me on that. We need to get an answer on this before we deal with this. I had asked them to show me where they were covered by the open records. In general everyone is, but there are exceptions. We'll try to get an answer by Monday.

Representative Uglem withdrew his do pass motion and Representative Holman his second.

Discussion closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1176

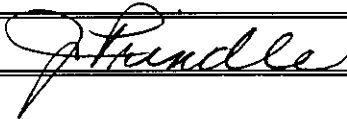
House Human Services Committee

Check here for Conference Committee

Hearing Date: **January 19, 2009**

Recorder Job Number: 7232

Committee Clerk Signature



Minutes:

Chairman Weisz opened discussion of HB 1176.

Representative Hofstad: I talked to Jack McDonald and they want to see page 11, line 23-25, in there so those records continue to be open to public inspection. (Also page 20, lines 1-3) You may have many complaints and how would you know.

Chairman Weisz: They don't think this is adequately covered under the open records law?

Representative Porter: I think on page 11, I think that's sufficiently covered by the open records; but, if they want it spelled out, that's okay. On page 20 though, it seems with all these professional boards we have given them the authority to receive complaints and investigate them in the manner of an exempt record until the board determines to proceed with disciplinary action. Once it's deemed to be a complaint that holds water, it becomes a public process. This is true with most boards. It wouldn't take much to wreck a professional license of a person with a frivolous complaint. The reason we have these boards in place is to protect the consumer but they have the responsibility to make sure that a complaint that comes in front of them is a true complaint and not a witch hunt.

Representative Hofstad: You can have several complaints against an individual and the public would not know.

Representative Porter: I would be happy to put the same provisions that the state bar association has so that everybody lives by the same rules.

Representative Conrad: There are a lot of complaints in life and they do not get aired in public.

Chairman Weisz: I think their concern was that there may be multiple complaints. Just because there were 20 complaints about overcharging should that be aired.

The issue is the length of time within the public's right to know might be compromised in the case of unethical conduct.

Representative Hofstad: I would weigh in on the side of the professional. Sometimes it is for no other reason than someone is angry or has a grudge to bear. I think we need to be careful.

Representative Damschen: My understanding is that they only meet quarterly and the complaints wouldn't be discussed until they met. I guess I'm wondering if they could have 25 complaints before the meeting and if they don't think they are substantiated and throw them out. I don't think they should be public until there's some wrong doing. Typically it would be only several months.

Chairman Weisz: They have a subcommittee of the board that meets immediately if there are concerns about harm to a patient.

Representative Conrad: Chapter 28 covers that. It is my experience with boards that they establish rules and those rules have timetables.

Representative Uglem: I would expect if it is a serious complaint, the executive committee would act on it almost immediately. That takes away a lot of concern.

Chairman Weisz: We have some suggested amendments we need to discuss. (He went through the amendments. There was open discussion on these.)

Representative Potter: I Move we accept the amendments (from the dental association)

Representative Nathe: Second.

A voice vote was taken: The amendments were accepted.

Representative Conrad: I would move an amendment that on page 11, delete the strike out of lines 23, 24, & 25. (Not the words, just the strike out)

Representative Hofstad: Second

Chairman Weisz: This would assure that their records fall under the open records.

A voice vote was taken: The amendment was accepted.

Representative Hofstad: I move Do Pass as Amended.

Representative Porter: I Second.

A roll call vote was taken: **Yes: 13, No: 0 Absent: 0 The Bill as Amended was passed.**

Representative Hofstad will carry the bill.

FISCAL NOTE
 Requested by Legislative Council
 01/23/2009

Amendment to: HB 1176

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.

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

HB 1176 to amend the regulation of dentists, dental hygienists, and dental assistants will have no fiscal impact on the State general fund or other funds. HB 1176 including the amendment will have no fiscal impact on county city or any school district.

B. **Fiscal impact sections:** Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

N/A

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

Name:	Rita Sommers	Agency:	NDSBDE
Phone Number:	701.391.7174	Date Prepared:	01/26/2009

FISCAL NOTE
 Requested by Legislative Council
 01/02/2009

Bill/Resolution No.: HB 1176

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.

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

HB 1176 to amend the regulation of dentists, dental hygienists, and dental assistants will have no fiscal impact on the State general fund or other funds. HB 1176 will have no fiscal impact on county city or any school district.

B. **Fiscal impact sections:** Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

N/A

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

Name:	Rita M. Sommers	Agency:	Board of Dentistry
Phone Number:	701-391-7174	Date Prepared:	01/05/2009

VR
1/21/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1176

Page 1, line 5, remove "43-28-08,"

Page 5, line 20, overstrike "inefficiency" and insert immediately thereafter "incompetency"

Page 6, line 8, remove "improper, unfair, or"

Page 11, line 15, after "licenses" insert "or registration"

Page 11, remove lines 19 through 29

Page 18, line 13, after "technicians" insert "without first having furnished the dental laboratory or dental laboratory technician a written prescription"

Renumber accordingly

Date: 19 Jan 09
 Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number Amendments submitted by ND Bd of

Action Taken Do Pass Do Not Pass Amended

Motion Made By Potter Seconded By Nathe

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Total (Yes) _____ No _____

Absent _____
 Bill Carrier Passed Amendments Accepted
 If the vote is on an amendment, briefly indicate intent:

Amendments submitted by ND Board of Mental Examiners

Date: 19 Jan 09
 Roll Call Vote #: 2

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amend Do Not Pass Amended

Motion Made By Conrad Seconded By Hofstad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ			REP. TOM CONKLIN		
VICE-CHAIR VONNIE PIETSCH			REP. KARI L CONRAD		
REP. CHUCK DAMSCHEN			REP. RICHARD HOLMAN		
REP. ROBERT FRANTSVOG			REP. ROBERT KILICHOWSKI		
REP. CURT HOFSTAD			REP. LOUISE POTTER		
REP. MICHAEL R. NATHE					
REP. TODD PORTER					
REP. GERRY UGLEM					

Total (Yes) _____ No Accepted

Absent _____

Bill Carrier _____

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

*remove strike out (not words)
 on page 11, lines 23, 24+25*

Date: 1-19-09

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1176

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Hofstad Seconded By Porter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 13 No 0

Absent 0

Bill Carrier Rep. Hofstad

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

REPORT OF STANDING COMMITTEE

HB 1176: Human Services Committee (Rep. Welsz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1176 was placed on the Sixth order on the calendar.

Page 1, line 5, remove "43-28-08,"

Page 5, line 20, overstrike "inefficiency" and insert immediately thereafter "incompetency"

Page 6, line 8, remove "improper, unfair, or"

Page 11, line 15, after "licenses" insert "or registration"

Page 11, remove lines 19 through 29

Page 18, line 13, after "technicians" insert "without first having furnished the dental laboratory or dental laboratory technician a written prescription"

Renumber accordingly

2009 SENATE HUMAN SERVICES

HB 1176

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1176

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 03/17/2009

Recorder Job Number: 11108

Committee Clerk Signature

Mary K Monson

Minutes:

Senator Erbele Opened the hearing on HB 1176.

Rob Lauf Member of the ND State Board of Dental Examiners. Spoke in support of 1176. See attachment #1.

Joe Cichy ND Dental Association. Spoke in support of 1176. They specifically support the expansion of services for dental hygienists allowing them to work outside the dental office under the direction of the dentists. They think this will help the access issue in ND.

Chairman J. Lee I am glad to see this legislation is here. Spoke about her experience with her father and his need for dental care.

Kathy Keiser Ronald McDonald House Charities in Bismarck. Spoke in support of 1176. See attachment #2.

There was no opposition or neutral testimony submitted.

Chairman J. Lee Closed the hearing on HB 1176. Opened the discussion on HB 1176. Can you explain the various categories of dental assistants? We need to be able to understand what the categories are so that we explain the bill on the floor.

Lauf Basically in the past in order to be a dental hygienist you had to be licensed. To be a dental assistant you can be trained through a college or educational program, or you can be

trained on the job and take BAMBI (unsure on the acronym) which is a national test. You can be a regular assistant, a registered assistant (through BAMBI and registered with the state) or a certified assistant (through BAMBI but not registered). In ND we are trying to get everyone certified and registered.

Chairman J. Lee So the pecking order would be dental assistant, qualified dental assistant, and registered dental assistant?

Lauf That is correct

Chairman J. Lee So that is what section 2 is doing—clarifying what the process is for licensing?

Lauf We are basically cleaning up the language to get all the dental hygienists into one section of the law. Dentists and Hygienists are licensed ever two years but the dental assistants have to certify every year, this bill is making it standard for every 2 years.

Chairman J. Lee So all dental professionals will be overseen by the Board of Dental Examiners?

Lauf That is the plan.

Chairman J. Lee Is your ultimate goal to have everyone registered? Is this is a step in expecting everyone to have the same level of competency for a dental assistant?

Lauf Yes, our goal is to have everyone registered so we know who is doing what where and second of all expanding functions for the dental assistants.

Chairman J. Lee Do you anticipate a time when a dental assistant will need to have some sort of academic or clinical background before going into the workplace?

Lauf The problem is you have to have the program for it and right now Wahpeton is the only program. There was one in Moorhead but they are losing their accreditation. Spoke about his personal experiences with dental assistants.

Chairman J. Lee I think there might be some benefit in the long term to have academic training.

Discussion about the Moorhead program and privacy considerations for dental assistants

Senator Heckaman I move **Do Pass**

Senator Pomeroy Second

The Clerk called the role on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Pomeroy will carry the bill.

Date: 3/17/09

Roll Call Vote #: _____

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1176

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Rerefer to Appropriations

Adopt Amendment Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

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

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Pomeroy

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

REPORT OF STANDING COMMITTEE (410)
March 17, 2009 4:12 p.m.

Module No: SR-48-5160
Carrier: Pomeroy
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1176, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1176 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1176



North Dakota State Board of Dental Examiners

HB1176 - Human Services Committee
March 13, 2009

Good morning Chairman Weisz and members of the Committee, I am Rita Sommers, Executive Director of the North Dakota State Board of Dental Examiners. The Board of Dental Examiners works to protect the public by ensuring that all dentists, dental hygienists and registered dental assistants practicing in North Dakota meet the requirements for licensure and comply with the applicable conditions and regulations of the law. The Board also oversees the investigation of complaints with respect to violations of laws and regulations governing the practice of dentistry, dental hygiene and dental assisting. If indicated, appropriate disciplinary action is imposed and proper authorities are notified. The Board also conducts inspection of dental offices and dental credentials for those dentists permitted to administer sedation.

HB1176 contains a number of amendments to existing statute while repealing several other areas. The Board is confident that this legislation is proactive and also addresses and clarifies issues that have previously come before us. The new language in 43-28 exempts dental hygienists and dental assistants as they will now be comprehensively addressed in Chapter 43-20.

The objectives of this legislation are:

- ◆ **Define exact requirements for licensure.** This legislation provides a specific outline of what is required for initial application of licensure, license by credential and renewal of license for dentists, dental hygienists and dental assistants in a more concise manner.

◆ **Broaden the supervision of registered dental hygienists.** Collaborative stakeholders have been charged with researching ideas and holding discussions to develop recommendations related to better utilization of dental hygienists' skills and education. This in an effort to address issues related to access to care of underserved populations and maldistribution of dental providers. Through alterations in the scope of practice, dental hygienists will assist the dental team in the delivery of services in a more cost effective manner. Procedures that may only be provided under the direct supervision of a dentist are exempt from this section. All procedures must be preauthorized by a dentist.

◆ **Disciplinary actions.** Changes are made to abridge and clarify issues related to grounds for and procedures related to disciplinary actions. Disciplinary actions are addressed in three areas:

1. Although various *Grounds* for discipline are clarified for each practitioner, disciplinary action *procedures* are the same for all groups.
2. This legislation proposes that a complaint, response and any records may be kept confidential until the board decides to move forward with disciplinary action. If the Board does proceed with a disciplinary action the record is no longer exempt. Although Board proceedings are held in an open meeting format, in the instance of an allegation the name of the accused as well as the allegation may be held in confidence until the board determines that the complaint has merit.
3. In section 29, another key component of disciplinary amendments dramatically assists the Board in it's role to protect the public by allowing the Board to suspend a license under circumstances where it is apparent

that continuing to allow the licensee to practice represents a significant risk to the public.

- ◆ About a year ago, the Legislative Council issued a letter requesting clarification in boards' statutes which address laws providing criminal penalties for violation of state laws and administrative rules regulating occupations and professions. The Council recommended that boards that regulate professions make any statutory changes they deem appropriate in an effort to provide clear and consistent penalty provisions. In addressing disciplinary procedures Sections 6, 8, 9, 26, 28, 29, and 31 are very concise in providing measures the Board requires to protect the public. Provisions for disciplinary action are substituted for criminal penalties in this legislation.

- ◆ **Section 13 - registration of dental assistants.** Dental assistants are currently required to renew their registration annually. The dental hygienists and dentists renew biennially. This has proven to be far more cost effective and efficient. The leadership of the North Dakota Dental Assistants' Association has commented favorably regarding the legislation that would enable biennial registration for assistants.

Amendments to HB 1176

Page 5, line 20:

Strike the word "inefficiency" and replace with the word "incompetency"

Page 6, line 8:

Strike the word "improper" and the word "unfair"

Page 11, line 15:

Add "or registration" after the word "licenses"

2. Examine applicants for licenses or registration to practice dentistry ...

Page 18, line 13:

Add to the end of the sentence of subsection 24:

without first having furnished the unlicensed person a written prescription.

Amendments to HB 1176

Page 5, line 20:

Strike the word "inefficiency" and replace with the word "incompetency"

Page 6, line 8:

Strike the word "improper" and the word "unfair"

Page 11, line 15:

Add "or registration" after the word "licenses" 3

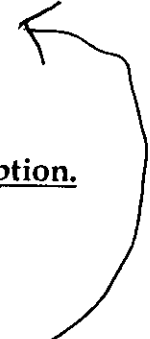
2. Examine applicants for licenses or registration to practice dentistry ...

Page 18, line 13:

Add to the end of the sentence of subsection 24: 5

without first having furnished the unlicensed person a written prescription.

Page 11, line 15, remove the overstrike
over " ~~the records of the board, together with the
list of all licensed and registered dentists,
are public records and must be open to
public inspection at all reasonable times.~~ "



2

**Testimony
HB 1176
House Human Services Committee
January 13, 2009, 10:30 a.m.**

Good Morning Chairman Weisz and members of the House Human Services Committee. My name is Maija Beyer and I am representing the North Dakota Dental Hygienists' Association (NDDHA). Our membership is made up of 140 hygienists from across North Dakota. I am here to provide testimony in support of HB 1176.

NDDHA supports this bill. Specifically, NDDHA would like to voice our support for section 43-20-03 of the Dental Hygiene Practice act which addresses supervision of dental hygienists. Supervision requirements needed to be clarified within the dental setting to reflect current practice. In addition, changes to the practice act are needed to assure increased access to quality care oral health care for all individuals. The supervision changes provided in this bill will allow dental hygienists to provide a variety of preventive services such as application of fluorides and dental sealants in public health settings and help to reach our most vulnerable children who may not otherwise be able to receive dental care.

Thank you. I would be happy to answer any questions.

**Testimony before the Senate Human Services Committee
HB 1176**

Good morning Chairman Lee and members of the Committee, I am

[Rob Lauf, a member of the North Dakota State Board of Dental Examiners].

The Board of Dental Examiners works to protect the public by ensuring that all dentists, dental hygienists and registered dental assistants practicing in North Dakota meet the requirements for licensure and comply with the applicable conditions and regulations of the law. The Board also oversees the investigation of complaints with respect to violations of laws and regulations governing the practice of dentistry, dental hygiene and dental assisting. If indicated, appropriate disciplinary action is imposed and proper authorities are notified. The Board also conducts inspection of dental offices and dental credentials for those dentists permitted to administer sedation.

HB1176 contains a number of amendments to existing statute while repealing several other areas. The Board is confident that this legislation is proactive and also addresses and clarifies issues that have previously come before us. The new language in 43-28 exempts dental hygienists and dental assistants as they will now be comprehensively addressed in Chapter 43-20.

The objectives of this legislation are:

◆ **Define exact requirements for licensure.** This legislation provides a specific outline of what is required for initial application of licensure, license by credential and renewal of license for dentists, dental hygienists and dental assistants in a more concise manner.

◆ **Broaden the supervision of registered dental hygienists.** Collaborative stakeholders have been charged with researching ideas and holding discussions to develop recommendations related to better utilization of dental hygienists' skills and education. This in an effort to address issues related to access to care of underserved populations and maldistribution of dental providers. Through alterations in the scope of practice, dental hygienists will assist the dental team in the delivery of services in a more cost effective manner. Procedures that may only be provided under the direct supervision of a dentist are exempt from this section. All procedures must be preauthorized by a dentist.

◆ **Disciplinary actions.** Changes are made to abridge and clarify issues related to grounds for and procedures related to disciplinary actions. Disciplinary actions are addressed in three areas:

1. Although various *Grounds* for discipline are clarified for each practitioner, disciplinary action *procedures* are the same for all groups.
2. This legislation proposes that a complaint, response and any records may be kept confidential until the board decides to move forward with disciplinary action. If the Board does proceed with a disciplinary action the record is no longer exempt. Although Board proceedings are held in an open meeting format, in the instance of an allegation the name of the accused as well as the allegation may be held in confidence until the board determines that the complaint has merit.

3. In section 29, another key component of disciplinary amendments dramatically assists the Board in it's role to protect the public by allowing the Board to suspend a license under circumstances where it is apparent that continuing to allow the licensee to practice represents a significant risk to the public.

◆ About a year ago, the Legislative Council issued a letter requesting clarification in boards' statutes which address laws providing criminal penalties for violation of state laws and administrative rules regulating occupations and professions. The Council recommended that boards that regulate professions make any statutory changes they deem appropriate in an effort to provide clear and consistent penalty provisions. In addressing disciplinary procedures Sections 6, 8, 9, 26, 28, 29, and 31 are very concise in providing measures the Board requires to protect the public. Provisions for disciplinary action are substituted for criminal penalties in this legislation.

◆ **Section 13 - registration of dental assistants.** Dental assistants are currently required to renew their registration annually. The dental hygienists and dentists renew biennially. This has proven to be far more cost effective and efficient. The leadership of the North Dakota Dental Assistants' Association has commented favorably regarding the legislation that would enable biennial registration for assistants.

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**Testimony
HB 1176
Senate Human Services Committee
March 17th, 2009, 9AM**

Good Morning Chairman Lee and members of the Senate Human Services Committee. My name is Kathy Keiser and I am representing the Ronald McDonald House Charities in Bismarck. I am providing testimony in support of HB 1176.

Ronald McDonald House Charities of Bismarck would like to voice our support for the change in section 43-20-03 of the Dental Hygiene Practice act which addresses supervision of dental hygienists. This change is important to the future operation of the Ronald McDonald Care Mobile which I spoke to you about last week.

As you know, the Care Mobile will bring dental care to underserved North Dakota children in their own neighborhoods. This change is needed for the efficient operation of the Care Mobile, so that a dental hygienist can provide the preventive services in schools and communities. It would allow dental hygienists to prescreen children and provide preventive services such as fluorides and sealants. This would help prevent tooth decay among the state's children who are unable to receive regular dental care.

Please support HB 1176.

Thank you. I'd be happy to answer any questions.

Kathy Keiser
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