

**2013 HOUSE HUMAN SERVICES**

**HB 1091**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

HB 1091  
January 16, 2013  
Job # 17291

☐ Conference Committee

Committee Clerk Signature

*Marly Kingle*

### Explanation or reason for introduction of bill/resolution:

Relates to definitions concerning advanced practice registered nurses, licensed practical nurses, registered nurses, registered nurses and specialty practice registered nurses, and to nursing practice standards and continuing education requirements.

### Minutes:

Testimony #1,#2, #3, #4, #5

**Chairman Weisz:** Opened the hearing on HB 1091.

Julie Trayner: RN, President of ND Board of Nursing testified in support of the bill. (See Testimony #1)

Dr. Constance Kalanek: PhD, RN and Director of Board of Nursing testified in support of the bill. (See Testimony #2)

13:52 Rep. Silbernagel: What is Workplace Impairment Program and why are you eliminating it?

Dr. Kalanek: The program a confidential program run by the Board and has been in existence for more than 25 years. Nurses who had an alcoholic or a drug issue and they reported themselves to the Board, could go into the program for help and not receive disciplinary action. Because of some of the changes we have experienced in our society and the aggressive acts that have occurred, the ability for them to qualify was not there. We are down to 2-3 people who will be monitored. After that point anyone with these kinds of issues will be put in an encumbered status utilizing many of the same monitoring requirements but has different disciplinary actions with monitoring.

Rep. Porter: On page 4, section 4, sub 4, line 16 says. Now we tell the Governor who he can and cannot appoint to the board? Is there a basis for this?

Dr. Kalanek: The five year the Board feels is critical for the knowledge needed to make these types of decisions necessary. Someone with less experience it is very difficult for them to be an active member of the Board.

Chairman Weisz: Would you go through section 11 why, is that no longer necessary?

Dr. Kalanek: Because this is now under duties of the Board. On page 5, line 29 "added to" This is that the Board is responsible to license qualified applicant with an UAP, develop standards for continued competence, the CEP that we are asking to have repealed in section 18 and 20 which is covers developed there along with Nursing Practice and issued practices statements.

The board would be vigilant in review applicant and renewals to maintain there competence.

Patricia Moolton: Testified in support of the bill (See handout #3)

Karen Macdonald: RN and lobbyist for the ND Nurses Association testified in support of the bill. (See Testimony #4). (See handout #5, proposed amendment)

25:34 Rep. Oversen: Is the word "Regulatory" enough as to what the Board oversees?

Karen Macdonald: Regulatory standards are standards that are something I must do. Professional standards are something I strife to do.

Chairman Weisz: Called Dr. Kalanek up for a question. On page 1 under LPN, are we changing how we currently operating?

Dr. Kalanek: It is clarifying language and not changing anything.

There was no opposition to this bill

Committee hearing closed on HB 1091

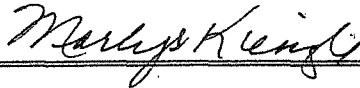
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

HB 1091  
January 21, 2013  
Job # 17455

☐ Conference Committee

Committee Clerk Signature



### Minutes:

Fiscal Note- Proposed Amendment

**Chairman Weisz:** Opened the meeting on HB 1091. Chairman Weisz explained the changes Legislative Council suggested. Example page 5 Line 3 and 26 the Board of Nursing asked to add amend, repeal, and enforce. LC says they do not use that language and the word adopt means they will amend and enforce the rule. They would remove amend, repeal and have "adopt and enforce". This would also include Page 10 line 13 and page 6 line 8.

On page 5 line 31 and page 6 line, 1 they have replace Develop standards with Adopt and enforce rules. (See handout #1)

**Rep Silbernagel:** Made a motion to approve.

**Rep Hofstad:** Seconded the motion.

VOICE VOTE: MOTION CARRIED

**Rep Porter:** Made a motion to further amend the bill on page 4 lines 16 and 17.

**Rep Anderson:** Seconded the motion.

**Rep Porter:** His thoughts were that the Governor should not be restricted in the selection process. The staff's doing the selection process is qualified in doing this process. There may be someone highly educated with a nursing degree only practicing for 2 years that would be highly qualified.

**Chairman Weisz:** Also included that usually names were put forward by the Board for the selection.

**Rep Fehr:** Is not in favor of this amendment as his experience on being on a Board, it was not high priority and took up to 6 to 9 months to choose someone for the Board. If someone was chosen with 5 years of experience we were assure that chosen Board Member had some experience.

**Rep Hofstad:** My experiences have been that the Governor's office asks for a lot of input in choosing a new Board Member and that there is a lot of consideration from the Boards by the Governor. I agree with Rep Porter those lines need to stay there.

**Rep Porter:** It wasn't that long ago that we had a rewrite of this chapter in front of us. At that time most of the Board Members were Nurse Educators, which we changed the requirement to be a practicing nurse. The purpose for the Board is to protect the patient. To limit it to the number of years, limits to have that choice. We do want to continue to have the Board members to be nurses working in the trenches. Having 5 years of experience has nothing to do with being a good board member. This decision is to be made by the Governor of the State of North Dakota not legislature.

**Rep Fehr:** Just a comment of information we saw this is that people who were early career were usually under 5 years and 5 on up to a certain number was middle career and on up was late career. This would exclude the early career.

**Rep Weisz:** Called for a roll call on the amendment. 9 yeas 3 nays 1 absent  
The Amendment is a Do Pass.

**Rep Porter:** Made a motion as **do pass as amended**.

**Rep Laning:** Seconded the motion.

Do Pass as Amended 12 yeas 0 nay 1 absent. Rep Porter is the carrier.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Revised  
Bill/Resolution No.: HB 1091

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

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

- 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.*

This bill is not anticipated to have a fiscal impact.

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:** Kathy Roll

**Agency:** Office of Attorney General

**Telephone:** 701-328-3622

**Date Prepared:** 01/14/2013

13.8048.01003  
Title.02000

Adopted by the Human Services Committee

January 22, 2013

1/22/13  
TD

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1091

Page 4, remove lines 16 and 17

Page 4, line 18, replace "5." with "4."

Page 4, line 20, replace "6." with "5."

Page 5, line 3, remove ", amend, repeal,"

Page 5, line 26, remove ", amend, repeal,"

Page 5, line 31, replace "Develop standards" with "Adopt and enforce rules"

Page 6, line 1, replace "Develop standards" with "Adopt and enforce rules"

Page 6, line 8, remove ", amend, repeal,"

Page 10, line 13, remove ", amend, repeal,"

Renumber accordingly



Date: 1-21-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1091

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Silbernagel Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. MOONEY		
VICE-CHAIRMAN HOFSTAD			REP. MUSCHA		
REP. ANDERSON			REP. OVERSEN		
REP. DAMSCHEN					
REP. FEHR					
REP. KIEFERT					
REP. LANING					
REP. LOOYSEN					
REP. PORTER					
REP. SILBERNAGEL					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*move  
amendment  
01002  
voice vote,  
motion carries*

Date: 1-21-13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1091

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment <sup>further</sup>

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Porter Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA		✓
REP. ANDERSON	✓		REP. OVERSEN		✓
REP. DAMSCHEN	✓				
REP. FEHR		✓			
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 9 No 3

Absent 1

Floor Assignment \_\_\_\_\_

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

*move further amend  
remove lines 16 and 17  
on page 4*

Date: 1-21-13  
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1091

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. PORTER Seconded By Rep. Laning

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. MOONEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE-CHAIRMAN HOFSTAD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. MUSCHA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. ANDERSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. OVERSEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. DAMSCHEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. FEHR	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. KIEFERT	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. LANING	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. LOOYSEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. SILBERNAGEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. PORTER

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

**REPORT OF STANDING COMMITTEE**

**HB 1091: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1091 was placed on the Sixth order on the calendar.

Page 4, remove lines 16 and 17

Page 4, line 18, replace "5." with "4."

Page 4, line 20, replace "6." with "5."

Page 5, line 3, remove ", amend, repeal,"

Page 5, line 26, remove ", amend, repeal,"

Page 5, line 31, replace "Develop standards" with "Adopt and enforce rules"

Page 6, line 1, replace "Develop standards" with "Adopt and enforce rules"

Page 6, line 8, remove ", amend, repeal,"

Page 10, line 13, remove ", amend, repeal,"

Renumber accordingly

**2013 SENATE HUMAN SERVICES**

**HB 1091**

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Human Services Committee Red River Room, State Capitol

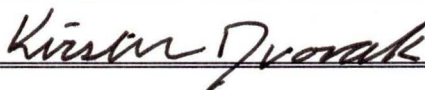
HB 1091

2/18/13

Recording Job Number:  
19109

☐ Conference Committee

Committee Clerk Signature:



### Explanation or reason for introduction of bill/resolution:

Relating to definitions concerning nurses; state board of nursing & members; nursing practice standards and continuing education requirements.

### Minutes:

See attached testimony.

**Chairman Lee** opens hearing on HB 1091.

**Constance Kalanek** PhD, RN, and Executive Director of the North Dakota Board of Nursing, provides information to the committee. See attachments labeled #1. Dr. Kalanek also distributed testimony from the North Dakota Center for Nursing. See attachment #2. Ends at 13:10

**Senator Anderson** - clarifies "may" to "shall"

**Senator Dever** - (meter 13:35) asks for clarification on eliminating the confidential program. They will be monitoring as opposed to the confidential program

**Chairman J. Lee** (meter 15:52) asks Dr. Kalanek to explain the Nurse Licensure Compact to :committee. There is a discussion about how MN is not yet apart of the Compact and how that affects ND as well as about traveling nurses and how that works with the Compact and licensing.

No further questions or testimony on HB 1091.

**Senator Anderson** moves to adopt the amendment proposed by Dr. Kakanek.

**Senator Larsen** seconds.

**Roll call vote:** 5-0, motion passes.

**Senator Anderson** moves Do Pass as Amended.

**Senator Larsen** seconds.

**Roll call vote:** 5-0, motion passes.

**Senator Anderson** is the carrier.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2012**

Revised  
Bill/Resolution No.: HB 1091

- 1 A. **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.*

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

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

- 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.*

This bill is not anticipated to have a fiscal impact.

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.*
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**Name:** Kathy Roll

**Agency:** Office of Attorney General

**Telephone:** 701-328-3622

**Date Prepared:** 01/14/2013

February 18, 2013

*Handwritten:*  
JF  
2-18-13  
10f

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1091

Page 1, line 2, remove the first "and"

Page 1, line 2, after "43-12.1-13" insert ", and 43-12.1-14"

Page 10, after line 4, insert:

**"SECTION 10. AMENDMENT.** Section 43-12.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**43-12.1-14. Grounds for discipline - Penalties.**

The board may deny, limit, revoke, encumber, or suspend any license or registration to practice nursing issued by the board or applied for in accordance with this chapter; reprimand, place on probation, or otherwise discipline a licensee, registrant, or applicant; deny admission to licensure or registration examination; ~~provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders;~~ require evidence of evaluation and treatment; or issue a nondisciplinary letter of concern to a licensee, registrant, or applicant, upon proof that the person:

1. Has been arrested, charged, or convicted by a court, or has entered a plea of nolo contendere to a crime in any jurisdiction that relates adversely to the practice of nursing and the licensee or registrant has not demonstrated sufficient rehabilitation under section 12.1-33-02.1;
2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license or registration to practice nursing or to assist in the practice of nursing or to practice in another health care occupation or profession denied, revoked, suspended, or otherwise sanctioned;
3. Has engaged in any practice inconsistent with the standards of nursing practice;
4. Has obtained or attempted to obtain by fraud or deceit a license or registration to practice nursing, or has submitted to the board any information that is fraudulent, deceitful, or false;
5. Has engaged in a pattern of practice or other behavior that demonstrates professional misconduct;
6. Has diverted or attempted to divert supplies, equipment, drugs, or controlled substances for personal use or unauthorized use;
7. Has practiced nursing or assisted in the practice of nursing in this state without a current license or registration or as otherwise prohibited by this chapter;
8. Has failed to report any violation of this chapter or rules adopted under this chapter; or

- 2 of 2
9. Has failed to observe and follow the duly adopted standards, policies, directives, and orders of the board, or has violated any other provision of this chapter."

Renumber accordingly

Date: 2/18/13  
Roll Call Vote #:       

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1091

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.8048.02001 Title 03000

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Anderson Seconded By Larsen

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2/18/13  
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1091

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Anderson Seconded By Larsen

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	<input checked="" type="checkbox"/>		Senator Tyler Axness	<input checked="" type="checkbox"/>	
Vice Chairman Oley Larsen	<input checked="" type="checkbox"/>				
Senator Dick Dever	<input checked="" type="checkbox"/>				
Senator Howard Anderson, Jr.	<input checked="" type="checkbox"/>				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Anderson

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

**REPORT OF STANDING COMMITTEE**

**HB 1091, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1091 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the first "and"

Page 1, line 2, after "43-12.1-13" insert ", and 43-12.1-14"

Page 10, after line 4, insert:

**"SECTION 10. AMENDMENT.** Section 43-12.1-14 of the North Dakota Century Code is amended and reenacted as follows:

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The board may deny, limit, revoke, encumber, or suspend any license or registration to practice nursing issued by the board or applied for in accordance with this chapter; reprimand, place on probation, or otherwise discipline a licensee, registrant, or applicant; deny admission to licensure or registration examination; ~~provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders;~~ require evidence of evaluation and treatment; or issue a nondisciplinary letter of concern to a licensee, registrant, or applicant, upon proof that the person:

1. Has been arrested, charged, or convicted by a court, or has entered a plea of nolo contendere to a crime in any jurisdiction that relates adversely to the practice of nursing and the licensee or registrant has not demonstrated sufficient rehabilitation under section 12.1-33-02.1;
2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license or registration to practice nursing or to assist in the practice of nursing or to practice in another health care occupation or profession denied, revoked, suspended, or otherwise sanctioned;
3. Has engaged in any practice inconsistent with the standards of nursing practice;
4. Has obtained or attempted to obtain by fraud or deceit a license or registration to practice nursing, or has submitted to the board any information that is fraudulent, deceitful, or false;
5. Has engaged in a pattern of practice or other behavior that demonstrates professional misconduct;
6. Has diverted or attempted to divert supplies, equipment, drugs, or controlled substances for personal use or unauthorized use;
7. Has practiced nursing or assisted in the practice of nursing in this state without a current license or registration or as otherwise prohibited by this chapter;
8. Has failed to report any violation of this chapter or rules adopted under this chapter; or
9. Has failed to observe and follow the duly adopted standards, policies, directives, and orders of the board, or has violated any other provision of this chapter."

Renumber accordingly

**2013 TESTIMONY**

**HB 1091**

## House Human Services Committee

### North Dakota Board of Nursing

#### HB 1091 Revisions to the NDCC 43-12.1 Nurse Practices Act

Chairman Weisz, Vice Chairman Hofstad and members of the Committee. I am Julie Traynor RN, President of the North Dakota Board of Nursing. I have with me today the other members of the Board of Nursing and Board Staff. I have attached a list of board members.

Thank you for the opportunity to provide information regarding the HB 1091 related to revisions to the NDCC 43-12.1 Nurse Practices Act.

The Board of Nursing:

1. Licenses approximately:
  - 12, 047 Registered Nurses (RN)
  - 3,494 Licensed Practical Nurses (LPN)
  - 898 Advanced Practice Nurses (APRN)
  - 528 APRNs with Prescriptive Authority
  - 520 Unlicensed Assistive Personnel (UAP) and Technicians
2. Is a nine member board appointed by the governor.
3. Is a member of the Nurse Licensure Compact which encompasses 24 states.

The North Dakota Board of Nursing underwent an analysis of the legal structure and practical operations of the Board in 2012. This analysis included a critical review of the statutes (Nurse Practice Act), rules and regulations, and Board of Nursing programs including the Workplace Impairment Program. The analysis indicated that the Nurse Practices Act should be updated. Over the years, there were pieces added into the Nurse Practices Act which were duplicative or were unclear. The Board Members, Board Staff, Board Committees and individual nurses from around our state came together this fall to review the recommendations for revisions made by Atkinson & Atkinson LLC. The National Council State Board of Nursing (NCSBN) Uniform Licensure Requirements and the APRN Consensus Model was also used as resources in making the proposed revisions. . Briefly, the changes include revisions to the definitions to be more consistent with the NCSBN model rules and clarification of the process for licensure by examination for nurses graduating from out of state programs. The changes also include revision of the makeup of the board to include one Advanced Practice Nurse and one less LPN representative to reflect the large amount of growth in the number of APRNs in ND over that last five years. Additional qualifications for board members were also included in the revision.



Dr. Connie Kalanek, Executive Director of the North Dakota Board of Nursing will be reviewing these changes in detail for you.

For the record, my name is Constance Kalanek PhD, RN, and Executive Director of the North Dakota Board of Nursing. I would like to take a few minutes to give a general overview of the proposed revisions. Basically, the majority of proposed revisions are format and organization. There are three proposed changes that are substantive:

- ✓ Composition of the Board.
  - ✓ Notification of licensure to the Board of Pharmacy.
  - ✓ Elimination of the Workplace Impairment Program.
  - ✓ Grandfathering language for the APRNs
- Atkinson & Atkinson LLC Audit of Nurse Practices Act, rules and board processes such as website.
  - The proposed revisions **do not** have a fiscal impact.
  - Revisions result of recommendations of the audit, Nurse Practice Committee, Board members and staff.
  - Consistency with Uniform Licensure Requirements and APRN Consensus Model.
  - Removed language that was redundant throughout the act.
  - **43-12.1-02. Definitions.** Expanded to include Uniform Licensure Requirements and to be consistent with Administrative Rules.
  - **43-12.1-02. Definitions.** Unlicensed Assistive Person- In addition to the Board other agencies authorize the performance of nursing interventions.
  - **43-12.1-03. License or registration required - Title - Abbreviation.** Added APRN and Specialty Practice RN, RN & LPN.
  - **43-12.1-05. & 06 - Board of nursing - Composition - Term of office. Qualifications.** Recommendation to change the consistency of the Board to better reflect the number of nurses and the needs of the citizens. Must be a voting resident, clear license as APRN & practicing.
  - **43-12.1-08 Duties of the board-** removed redundant language (43-12.1-03); replaced associations with organizations; eliminates the confidential Workplace Impairment Program as it currently exists; utilize electronic verification of licensure, so no paper notifications to Board of Pharmacy. The subsections m through q is new and replaces 18 & 20(end of bill).
    - ✓ **43-12.1-18. Nursing practice standards.** 43-12.1-20. Continuing education requirements. Deleted section 18 & 20 and replaced with o & p under Duties of the Board.
  - **43-12.1-09. Initial licensure and registration & 43-12.1-17. Nursing education programs.** Separated the narrative addressing in-state and out of state programs throughout the act. Language pertaining to distance education programs and the addition

of "jurisdiction in which program is headquartered" was deemed appropriate for recognition of online programs.

- **43-12.1-09. Initial licensure and registration.**
  - ✓ Accreditation of a program is voluntary and not utilized as a criterion for recognition.
  - ✓ Added the term "jurisdiction" to include the territories and the Canadian Provinces.
  - ✓ Clarified and added competency requirements for the LPN applicant licensed by a jurisdiction upon completion of an RN program.
  - ✓ Grandfathering clause for APRNs.
- **43-12.1-09.1. Nursing licensure or registration.** Criminal History Record Check - clarifying language that reflects the current process.
- **43-12.1-11. Duties of licensees and registrants.** Struck "by others". This will include self-reports also.
- **43-12.1-13. Disciplinary proceedings.** All action is reported to National Council State Board of Nursing Nursys Database. National Council is the agent for North Dakota to furnish the information to Healthcare Integrity and Protection Data Bank and National Practitioner Data Bank.
- **43-12.1-14. Grounds for discipline – Penalties.** No proposed changes.
- **43-12.1-15. Violation – Penalties** - No proposed changes.
- **43-12.1-16. Delegation of medication administration.** No proposed changes.
- **43-12.1-16.1. Supervision and delegation of nursing interventions.** No proposed changes.

Thank you for the opportunity to provide you with this information. I am now open to questions.

**NORTH DAKOTA BOARD OF NURSING  
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*Testimony #3*



## NORTH DAKOTA CENTER FOR NURSING

A unified voice for nursing excellence.

## North Dakota Board of Nursing Agency Bill #1091 Nurse Practices Act Revision

### INTRODUCTION

The North Dakota Board of Nursing underwent an analysis of the legal structure and practical operations of the Board. This analysis included a critical review of the statutes (practice act) and regulations, including the Workplace Impairment Program. In addition to the analysis the board compared the current statutes to the National Council State Board of Nursing Model Practice Act. The analysis indicated that the practices act should be updated. Over the years, there were pieces added into the practices act which were duplicative or were unclear.

The changes include revisions to the definitions to be more consistent with the NCSBN model rule and clarification of the process for licensure by exam for nurses graduating from out of state programs. The changes also include revision of the makeup of the board to include one Advanced Practice Nurse and one less LPN representative to reflect the large amount of growth in the number of APNs in ND over that last five years. Additional qualifications for board members were also included in the revision.

The revised Nurse Practices Act can be found at [www.ndbon.org](http://www.ndbon.org)

### POLICY RECOMMENDATION

The North Dakota Center for Nursing supports the proposed revisions to the Nurse Practices Act.

### KEY CONTACT:

For more information about the proposed Nurse Practices Act revisions, contact Dr. Constance Kalanek at:  
[ckalanek@ndbon.org](mailto:ckalanek@ndbon.org).

[www.ndcenterfornursing.com](http://www.ndcenterfornursing.com)

#4

## House Bill 1091

House Human Services Committee – January 16, 2013

Mr. Chairman, members of the committee: My name is Karen Macdonald, I am a Registered Nurse and the lobbyist for the North Dakota Nurses Assoc. I am appearing in support of HB 1091, amending the ND Nurse Practices Act. The amendments are timely and important as we move into the implementation of the Affordable Care Act, and the implementation of the Institutes of Medicine study on the Future of Nursing (2011). The amendments provide for the full implementation of the nursing workforce by clarifying the independent and interdependent <sup>role</sup> ~~role~~ of the professional nurse. The Association proposes one amendment to clarify that the Board of Nursing develops regulatory standards of practice but the professional associations are responsible for the development of the professional standards of nursing practice. In fact, the Board of Nursing references those professional standards in the current administrative rules of the board. That amendment is included and has been discussed with board staff.

I also want to apprise you of the role of the professional association – established over 100 years ago by a group of very courageous trained nurses. At that time, nurses who completed training programs “registered” at drugstores, clerks of court, or with physicians and were then “hired” to provide nursing care; very few actually worked in hospitals after they completed training. There were in excess of 25 training programs, with varying lengths and curriculums, and with varying outcomes as far as the graduates. In order to standardize the nursing programs and provide assurance to the public that a registered nurse had adequate training and education, the North Dakota Nurses Association proposed legislation in 1915 to create the Board of Registered Nurse Examiners (now the Board of Nursing) and to provide for a method of registration for those graduates meeting the Board’s standards for a “Registered Nurse”. The Association is part of the larger association known as the American Nurses Association that in turn is a member of the International Council of Nurses – representing most of the world’s countries. The social policy of the ANA and NDNA is to foster self-regulation of nurses (through boards of nursing) as long as such regulation is in the public’s interest. This bill seeks amendments that are in the public interest as identified above. As you heard earlier, the ND Board of Nursing takes very seriously its duty to protect the North Dakota citizen.

I would be happy to answer any questions you might have about this bill or the role of the North Dakota Nurses Association. If at any time in your deliberations, you have any questions, please feel free to call me.

Karen Macdonald, RN, FNP-C

North Dakota Nurses Association

Lobbyist #345

Cell # 471-4729



## Scope AND Standards OF PRACTICE

# Nursing

### Standards of Practice

The Standards of Practice describe a competent level of nursing care as demonstrated by the nursing process, a model of critical thinking that encompasses significant actions taken by all registered nurses and forms the foundation of their decision-making.

#### 1 Assessment

The registered nurse collects comprehensive data pertinent to the healthcare consumer's health and/or the situation.

#### 2 Diagnosis

The registered nurse analyzes the assessment data to determine the diagnoses or the issues.

#### 3 Outcomes Identification

The registered nurse identifies expected outcomes for a plan individualized to the healthcare consumer or the situation.

#### 4 Planning

The registered nurse develops a plan that prescribes strategies and alternatives to attain expected outcomes.

#### 5 Implementation

The registered nurse implements the identified plan.

##### 5A Coordination of Care

The registered nurse coordinates care delivery.

##### 5B Health Teaching and Health Promotion

The registered nurse employs strategies to promote health and a safe environment.

##### 5C Consultation

The graduate-level prepared specialty nurse or advanced practice registered nurse provides consultation to influence the identified plan, enhance the abilities of others, and effect change.

##### 5D Prescriptive Authority and Treatment

The advanced practice registered nurse uses prescriptive authority, procedures, referrals, treatments, and therapies in accordance with state and federal laws and regulations.

#### 6 Evaluation

The registered nurse evaluates progress toward attainment of outcomes.

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SSBK2010 100M 10/10

# Nursing

## Standards of Professional Performance

The Standards of Professional Performance describe a competent level of behavior in the professional role by which all registered nurses are expected to engage in professional role activities appropriate to their education and position.

### 7 Ethics

The registered nurse practices ethically.

### 8 Education

The registered nurse attains knowledge and competence that reflects current nursing practice.

### 9 Evidence-Based Practice and Research

The registered nurse integrates evidence and research findings into practice.

### 10 Quality of Practice

The registered nurse contributes to quality nursing practice.

### 11 Communication

The registered nurse communicates effectively in all areas of practice.

### 12 Leadership

The registered nurse demonstrates leadership in the professional practice setting and the profession.

### 13 Collaboration

The registered nurse collaborates with the healthcare consumer, family, and others in the conduct of nursing practice.

### 14 Professional Practice Evaluation

The registered nurse evaluates her or his own nursing practice in relation to professional practice standards and guidelines, relevant statutes, rules, and regulations.

### 15 Resource Utilization

The registered nurse utilizes appropriate resources to plan and provide nursing services that are safe, effective, and financially responsible.

### 16 Environmental Health

The registered nurse practices in an environmentally safe and healthy manner.

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testimony # 5

House Bill 1091

Proposed amendment

Pg. 6, line 1. – insert the word “regulatory” before standards so it reads

o. Develop regulatory standards for nursing practice.

Submitted by Karen Macdonald, Lobbyist #345 North Dakota Nurses Association

January 16, 2013

House Human Services Committee



**Senate Human Services Committee****North Dakota Board of Nursing****HB 1091 Revisions to the NDCC 43-12.1 Nurse Practices Act**

Chairman Lee, Vice Chairman Larsen and members of the Committee. For the record, my name is Constance Kalanek PhD, RN, and Executive Director of the North Dakota Board of Nursing. Thank you for the opportunity to provide information regarding the HB 1091 related to revisions to the NDCC 43-12.1 Nurse Practices Act.

I have attached a list of board members.

The Board of Nursing:

1. Licenses approximately:
  - 12, 047 Registered Nurses (RN)
  - 3,494 Licensed Practical Nurses (LPN)
  - 898 Advanced Practice Nurses (APRN)
  - 528 APRNs with Prescriptive Authority
  - 520 Unlicensed Assistive Personnel (UAP) and Technicians
2. Is a nine member board appointed by the governor.
3. Is a member of the Nurse Licensure Compact which encompasses 24 states.

The North Dakota Board of Nursing underwent an analysis of the legal structure and practical operations of the Board in 2012. This analysis included a critical review of the statutes (Nurse Practice Act), rules and regulations, and Board of Nursing programs including the Workplace Impairment Program. The analysis indicated that the Nurse Practices Act should be updated. Over the years, there were pieces added into the Nurse Practices Act which were duplicative or were unclear. The Board Members, Board Staff, Board Committees and individual nurses from around our state came together this fall to review the recommendations for revisions made by Atkinson & Atkinson LLC. The National Council State Board of Nursing (NCSBN) Uniform Licensure Requirements and the APRN Consensus Model was also used as resources in making the proposed revisions. . Briefly, the changes include revisions to the definitions to be more consistent with the NCSBN model rules and clarification of the process for licensure by examination for nurses graduating from out of state programs. The changes also include revision of the makeup of the board to include one Advanced Practice Nurse and one less LPN representative to reflect the large amount of growth in the number of APRNs in ND over that last five years.

I would like to take a few minutes to give a general overview of the proposed revisions. Basically, the majority of proposed revisions are format and organization. There are four proposed changes that are substantive:

- ✓ Composition of the Board.
  - ✓ Notification of licensure to the Board of Pharmacy.
  - ✓ Elimination of the Workplace Impairment Program.
  - ✓ Grandfathering language for the APRNs
- Atkinson & Atkinson LLC Audit of Nurse Practices Act, rules and board processes such as website.
  - The proposed revisions **do not** have a fiscal impact.
  - Revisions result of recommendations of the audit, Nurse Practice Committee, Board members and staff.
  - Consistency with Uniform Licensure Requirements and APRN Consensus Model.
  - Removed language that was redundant throughout the act.
  - **43-12.1-02. Definitions.** Expanded to include Uniform Licensure Requirements and to be consistent with Administrative Rules.
  - **43-12.1-02. Definitions.** Unlicensed Assistive Person- In addition to the Board other agencies authorize the performance of nursing interventions.
  - **43-12.1-03. License or registration required - Title - Abbreviation.** Added APRN and Specialty Practice RN, RN & LPN.
  - **43-12.1-05. & 06 - Board of nursing - Composition - Term of office. Qualifications.** Recommendation to change the consistency of the Board to better reflect the number of nurses and the needs of the citizens. Must be a voting resident, clear license as APRN & practicing.
  - **43-12.1-08 Duties of the board-** removed redundant language (43-12.1-03); replaced associations with organizations; eliminates the confidential Workplace Impairment Program as it currently exists; utilize electronic verification of licensure, so no paper notifications to Board of Pharmacy. The subsections m through q is new and replaces 18 & 20(end of bill).
    - ✓ **43-12.1-18. Nursing practice standards.** 43-12.1-20. Continuing education requirements. Deleted section 18 & 20 and replaced with o & p under Duties of the Board.
  - **43-12.1-09. Initial licensure and registration & 43-12.1-17. Nursing education programs.** Separated the narrative addressing in-state and out of state programs throughout the act. Language pertaining to distance education programs and the addition of “jurisdiction in which program is headquartered” was deemed appropriate for recognition of online programs.

- **43-12.1-09. Initial licensure and registration.**
  - ✓ Accreditation of a program is voluntary and not utilized as a criterion for recognition.
  - ✓ Added the term “jurisdiction” to include the territories and the Canadian Provinces.
  - ✓ Clarified and added competency requirements for the LPN applicant licensed by a jurisdiction upon completion of an RN program.
  - ✓ Grandfathering clause for APRNs.
- **43-12.1-09.1. Nursing licensure or registration.** Criminal History Record Check - clarifying language that reflects the current process.
- **43-12.1-11. Duties of licensees and registrants.** Struck “by others”. This will include self-reports also.
- **43-12.1-13. Disciplinary proceedings.** All action is reported to National Council State Board of Nursing Nursys Database. National Council is the agent for North Dakota to furnish the information to Healthcare Integrity and Protection Data Bank and National Practitioner Data Bank (two databases have merged).
- **43-12.1-14. Grounds for discipline – Penalties.** The amendment is attached. Strike the language “provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders;
- **43-12.1-15. Violation – Penalties** - No proposed changes.
- **43-12.1-16. Delegation of medication administration.** No proposed changes.
- **43-12.1-16.1. Supervision and delegation of nursing interventions.** No proposed changes.

Thank you for the opportunity to provide you with this information. I am now open to questions.

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## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1091

Page 10, after line 4, insert:

**"SECTION 10. AMENDMENT.** Section 43-12.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**43-12.1-14. Ground for discipline – Penalties.**

The board may deny, limit, revoke, encumber, or suspend any license or registration to practice nursing issued by the board or applied for in accordance with this chapter; reprimand, place on probate, or otherwise discipline a licensee, registrant, or applicant; deny admission to licensure or registration examination; ~~provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders;~~ require evidence of evaluation and treatment; or issue a nondisciplinary letter of concern to a licensee, registrant, or applicant, upon proof that the person:

1. Has been arrested, charged, or convicted by a court, or has entered a plea of nolo contendere to a crime in any jurisdiction that relates adversely to the practice of nursing and the licensee or registrant has not demonstrated sufficient rehabilitation under section 12.1-33-02.1;
2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license or registration to practice nursing or to assist in the practice of nursing or to practice in another health care occupation or profession denied, revoked, suspended, or otherwise sanctioned;
3. Has engaged in any practice inconsistent with the standards of nursing practice;
4. Has obtained or attempted to obtain by fraud or deceit a license or registration to practice nursing, or has submitted to the board any information that is fraudulent, deceitful, or false;
5. Has engaged in a pattern of practice or other behavior that demonstrates professional misconduct;
6. Has diverted or attempted to divert supplies, equipment, drugs, or controlled substances for personal use or unauthorized use;
7. Has practiced nursing or assisted in the practice of nursing in this state without a current license or registration or as otherwise prohibited by this chapter;
8. Has failed to report any violation of this chapter or rules adopted under this chapter; or
9. Has failed to observe and follow the duly adopted standards, policies, directives, and orders of the board, or has violated any other provisions of this chapter."

Renumber accordingly.



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- **LICENSES 12,047 RNS AND 3494 LPNS; REGISTERED 520 UNLICENSED ASSISTIVE PERSONS.**
- **LICENSURE APPLICANTS COMPETENCE ASSESSED THROUGH REQUIRED 400 HOURS OF PRACTICE AND 12 CONTACT HOURS OF CONTINUING EDUCATION.**
- **LICENSES 898 APRNS; 528 HAVE PRESCRIPTIVE AUTHORITY.**
- **APPROVES 10 RN, 6 PN AND 3 GRADUATE NURSING PROGRAMS WITH AN ENROLLMENT OF 2409.**
- **AVERAGE PASS RATE RN PROGRAMS IS 89%; LPN PROGRAMS IS 95%.**
- **NURSING EDUCATION LOAN PROGRAM DISPERSED \$84,500.**
- **FUNDS THE NURSING NEEDS STUDY –**  
[http://www.ndcenterfornursing.org/center\\_website\\_072012\\_034.htm](http://www.ndcenterfornursing.org/center_website_072012_034.htm).
- **MEMBER NURSE LICENSURE COMPACT ALONG WITH 24 OTHER STATES.**
- **ONLINE EXAMINATION, ENDORSEMENT, RENEWAL FOR RNS, LPNS, UAP, MA AND APRNS.**
- **ONLINE VERIFICATION OF LICENSURE/REGISTRATION OF ALL NURSES AND UNLICENSED ASSISTIVE PERSONS.**
- **TURN AROUND TIME FOR LICENSURE APPLICATIONS IS RAPID, LESS THAN 2 DAYS.**
- **INVESTIGATIONS COMPLETED IN AN AVERAGE OF 46 DAYS FOR RN & LPNS AND 33 DAYS FOR UAPs.**
- **100% COMPLIANCE REPORTING TO HIPDB/NPDB & OFFICE OF INSPECTOR GENERAL (OIG)**
- **MAINTAINS WORKPLACE IMPAIRMENT PROGRAM.**
- **MANAGES CRIMINAL HISTORY RECORD CHECKS FOR INITIAL & REACTIVATION OF LICENSURE & REGISTRATION.**
- **RESPONDS TO QUESTIONS ON PRACTICE, LICENSURE AND EDUCATION.**
- **PROVIDES ANNUAL REPORT TO THE GOVERNOR AND AVAILABLE ON WEBSITE.**

**The mission of the North Dakota Board of Nursing is to assure North Dakota citizens quality nursing care through the regulation of standards for nursing education, licensure and practice.**

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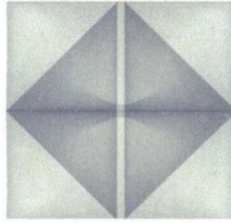


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**POLICY RECOMMENDATION**

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**KEY CONTACT:**

For more information about the proposed Nurse Practices Act revisions, contact Dr. Constance Kalanek at:  
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