

2013 SENATE HUMAN SERVICES

SB 2082

2013 SENATE STANDING COMMITTEE MINUTES

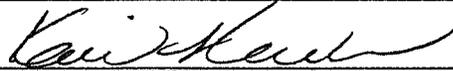
Senate Human Services Committee
Red River Room, State Capitol

SB 2082
1/15/13

Recording Job Number: 17204

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to massage therapy licensure and the board of massage.

Minutes:

You may make reference to "attached testimony."

Chairman Lee opens hearing on SB 2082.

Karen Wojahn, Board member and Secretary for the North Dakota State Board of Massage, is first up to testify in support of SB 2082.

See attached testimony #1.

Floor is open for questions from the committee.

Senator Axness addresses the language added in section 1, line 12 and is curious as to what that fee is intended for.

Ms. Wojahn understands that, from talking to the schools, the fee can be used for different materials, to attend a continual education seminar, or whatever the school chooses to use it for.

Chairman Lee follows by asking if this is similar to cosmetology or beauty schools charging less if the service is being done by the student and that it's more of an opportunity to gain experience while there is a licensed professional supervising.

Ms. Wojahn concurs that Chairman Lee's example is comparable.

Edward Erickson, Assistant Attorney General working with the Board of Massage, steps up to the podium to address a question from Chairman Lee regarding tips being permitted in the law. He states that the reason the specific language is being added stating that the students may accept tips is due to further language in section 1, line 13. The intention is to clarify the difference from a student practicing in the school while supervised vs. the student practicing at home unsupervised in regards to when tips are accepted.

Senator Dever asks Ms. Wojahn how many licensed massage therapists there are in regards to the term limits.

Ms. Wojahn states that there are 723 licensees in North Dakota.

Senator Larson asks what the educational requirements are.

Ms. Wojahn states that 750 hours are required (450 hours of education and 300 hours of hands on). Other medical education hours are accepted for massage therapy school credits/requirements. Nothing is grandfathered in but there is a teach-out plan.

No more questions from the committee for Ms. Wojahn.

Gail Houden, who serves on the State Board of Massage, steps up to the podium to express her support of the Bill. She has no testimony but welcomes any questions that may not have been addressed with Ms. Wojahn.

No questions from committee for Ms. Houden.

Brandi Malarkey, LMT from Fargo, is next up to testify in favor of the Bill.

See attached testimony #2.

Floor is opened for questions from the committee.

Senator Larsen asks if the tips are pooled together and get split up evenly amongst the students, or if the students get to keep the specific tip given for the service.

Ms. Malarkey states that this new language is going to clarify that the students will be able to accept and keep the exact tip they are given for the services they provide.

No further questions from the committee and no further testimony in either favor or opposition.

Chairman Lee closes hearing on SB 2082.

Committee proceeds with action.

Senator Anderson motions a Do Pass.

Senator Axness seconds.

No further committee discussion.

Roll call vote is 5-0, Do Pass.

Senator Anderson will carry the Bill to the floor.

Date: 1/15/13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2082

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 Sen. Anderson Seconded By Sen. Axness

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 Sen. Anderson

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

REPORT OF STANDING COMMITTEE

SB 2082: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2082 was placed on the
Eleventh order on the calendar.

2013 HOUSE INDUSTRY, BUSINESS, AND LABOR

SB 2082

2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2082
March 11, 2013
Job 19670

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to massage therapy licensure and the board of massage

Minutes:

Attachment 1

Hearing opened.

Karen Wojahn, board member and secretary for the North Dakota State Board of Massage: Refer to written testimony, attachment 1.

2:35 **Chairman Keiser:** What is the rationale for the requirement for age 18? Is there something about technically being an adult at that point?

Karen Wojahn: That was not part of the discussion.

3:29 **Edward Erickson, assistant attorney general working with the State Board of Massage:** A person under the age of 18 cannot sign a contract and cannot do some types of business transactions. The program takes about a year, so someone who graduates from high school at age 17 would likely be age 18 upon certification.

Chairman Keiser: Could they take tips while in school?

Edward Erickson: That would not be an issue; it would be under the school's policy.

Support:

4:29 **Gail Hovden, vice president of the North Dakota Board of Massage:** In favor of this bill.

Opposition:

Neutral:

Hearing closed.

House Industry, Business and Labor Committee

SB 2082

March 11, 2013

Page 2

Representative Boschee moves a **Do Pass** on SB 2082. **Representative M. Nelson** seconds the motion.

5:22 **Chairman Keiser:** Voiced support of reciprocity.

Roll call vote on motion for a Do Pass. Motion carries.

Yes = 13

No = 0

Absent = 2

Carrier: Representative M. Nelson

Date: 3-11-2013

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2082**

House Industry, Business, and Labor Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider Consent Calendar

Motion Made By Boschee Seconded By Nelson

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker		mb	Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog		mb			
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓				
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby	✓				
Rep. Don Vigesaa	✓				

Total Yes 13 No 2

Absent 2

Floor Assignment Nelson

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

REPORT OF STANDING COMMITTEE

SB 2082: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
SB 2082 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2082

Testimony from the State Massage Board on S.B. No. 2082

Karen Wojahn, Board Member and Secretary

January 15, 2013

Good morning. Chariman Lee and members of the committee. I am Karen Wojahn, a Board member and Secretary for the North Dakota State Board of Massage. I am here to explain why we would like you to pass Senate Bill no. 2082.

Section 1 - The bill will allow a school to charge a fee and students to accept tips under a policy set by the school. The board is allowing students to accept tips at the school but not if they are massaging at home and are not under supervision.

Section 2 - The board is purposing term limits and a massage therapist can serve 2 terms of 3 years each and a consumer member can serve 3 terms of 2 years each.

Section 3 - We removed the High School graduate requirement because a student must be a high school graduate to attend Massage school. We are also adding a provision to allow the Board flexibility when approving a teach out plan for license applicants who do not have the educational requirements for licensure in North Dakota

Section 4 - We are removing language that was required when the Board went to every-other-year reporting for continuing education because that language is no longer necessary.

Section 5 - We are changing the grounds of discipline for negligence from willful to gross negligence because gross negligence is defined elsewhere in the law and willful negligence is not used anywhere else in North Dakota Statues.

Section 6 – This section concerns licensure by reciprocity for applicants from other states and has two substantial changes. First, we added a requirement that the applicant must be in good standing in their home state.

My name is Brandi Malarkey, LMT from Fargo. I'm in favor of the following bills:

SECTION 1. AMENDMENT. A school may charge a fee and students may accept tips under a policy set by the school.

This will clarify some confusion in the law as it currently exists, and allow the schools to follow their own individual policies in this regard.

SECTION 2. AMENDMENT. 43-25-05. Board of massage - Terms.

Any member appointed to a term beginning after June 30, 2013, may only serve for a total of six consecutive years, after which that member may not be reappointed unless a period of two years has passed since that member last served on the board.

I am very much in favor of this.

There is a discrepancy between what is implied by the law and what is actual practice in how board members serve on the ND State Board of Massage. The implication is that with the rotation, a board member position is open when a current board member's term is up. However, as there are no term limits in place, even if a person has put in an application they will likely not be accepted if a board member wishes to retain their position. In addition, when a board member does choose to retire, licensees are often unaware that a position is open, and therefore do not apply. This results in a two pronged misconception: The board thinks that people are not interested in serving on the board, and the licensees feel that the board is self-perpetuating and that it is impossible to serve on the board.

While other massage boards with term limits vary as to length, the majority of them have a term limit of two consecutive terms. Because ND State Board members do not all serve identical terms (massage therapist members serve three years, and Consumer members two years) I think the 6 consecutive years term makes sense. This make term limits equal for both types of board members and would give any board member time to get comfortable and have an effect, but also keep them from getting burnt out. This would also result in the assurance that a new member would be appointed to the board almost yearly.

SECTION 3. AMENDMENT. 43-25-07. The board may approve alternate educational methods or methodology for applicants to complete educational requirements if the applicant has graduated from a school of massage that is accredited by a national or regional accrediting agency recognized by the United States department of education.

As many of the massage schools in the state have closed, leaving us with only four options, three of which are at the eastern end of the state, I think it is absolutely necessary for the Board of Massage to have further tools at their disposal for assisting therapists that are moving into the state to be able to fulfill the requirements set down in ND law.

① SB 2082
3-11-2013

Testimony from the State Massage Board on S.B. No. 2082

Karen Wojahn, Board Member and Secretary

March 11, 2013

Good morning, Chairman Keiser and members of the committee. I am Karen Wojahn, a Board member and Secretary for the North Dakota State Board of Massage. I am here to explain why we would like you to pass Senate Bill no. 2082.

Section 1 - The bill will allow a school to charge a fee and students to accept tips under a policy set by the school. The board is allowing students to accept tips at the school but not if they are massaging at home and are not under supervision.

Section 2 - The board is purposing term limits and a massage therapist can serve 2 terms of 3 years each and a consumer member can serve 3 terms of 2 years each.

Section 3 - We removed the High School graduate requirement because a student must be a high school graduate to attend Massage school. We are also adding a provision to allow the Board flexibility when approving a teach out plan for license applicants who do not have the educational requirements for licensure in North Dakota

Section 4 - We are removing language that was required when the Board went to every-other-year reporting for continuing education because that language is no longer necessary.

Section 5 - We are changing the grounds of discipline for negligence from willful to gross negligence because gross negligence is defined elsewhere in the law and willful negligence is not used anywhere else in North Dakota Statues.

Section 6 – This section concerns licensure by reciprocity for applicants from other states and has two substantial changes. First, we added a requirement that the applicant must be in good standing in their home state.

The second change is to provide flexibility in applying licensure standards for persons licensed in good standing for 5 years. Under present law, an applicant for reciprocity must have exactly the same educational and licensure requirements in their home state to qualify. Under the proposed law, an applicant with 5 years of practice who is in good standing may be licensed if their home state's standards are substantially similar to North Dakota standards.

Thank you. I would be happy to answer any questions you may have on this bill.

The second change is to provide flexibility in applying licensure standards for persons licensed in good standing for 5 years. Under present law, an applicant for reciprocity must have exactly the same educational and licensure requirements in their home state to qualify. Under the proposed law, an applicant with 5 years of practice who is in good standing may be licensed if their home state's standards are substantially similar to North Dakota standards.

Thank you. I would be happy to answer any questions you may have on this bill.