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10/16/03
Date

2003 HOUSE HUMAN SERVICES

HB 1458

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Yolanda Richardson
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10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1458

House Human Services Committee

Conference Committee

Hearing Date 2-12-03

Tape Number	Side A	Side B	Meter #
1	XX	XX	Entire tape
2	XX		0.0--9.5
2	XX		26.0--31.7

Committee Clerk Signature *Pam Weaver*

Minutes: **Rep. Devlin: Opened hearing on HB1458.**

Rep. Dosch, Dist. 32: In support. (SEE ATTACHED TESTIMONY)

Rep. Sandvig: Are there any instances you can sight where this has been a problem in ND?

Rep. Dosch: ND has been lucky due to previous work in tort reform. ND has not been effected like other parts of the country. This bill takes additional proactive approaches to certain areas.

Rep. Sandvig: Is it fair to compare ND with California?

Rep. Dosch: I believe it is. We know that CA is a very liberal state. They had to deal with these issues years ago as a result of the nature of CA. Their reforms have been time tested and used as models.

Rep. Potter: 6.8 If we start telling businesses what they can charge, like lawyers, then do we tell doctors. I am concerned with this.

Rep. Dosch: That has been one of the problems in the medical malpractice end of it; the litigation costs. The big huge awards are a problem. Sometimes the lawyers receive as much as

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Salvatore Riccardi
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House Human Services Committee
Bill/Resolution Number HB 1458
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the injured person. Higher litigation costs trickles down to all of us. If you want meaningful reform, you have to look at the whole package. This model works in CA.

Rep. Weisz: 9.0 You make the point that \$136,000 is unreasonable fee for a \$500,000 claim. If they tried 6 cases and loss 5 and win 1 case, then is \$136,000 unreasonable for a \$6M settlement?

Rep. Dosch: This is not new. I figure they have many more cases out there then we do.

Bruce Levi, ND Medical Assoc.:10.1--20 In support (SEE TESTIMONY & AMENDMENT)

Rep. Amerman: On pg. 4, section 3, how does the court project life expectancy of the plaintiff?

Bruce: The court is given the discretion as to how periodic payments work and issues with projected value. The court would resolve the issue as to placing total value of payments.

Rep. Amerman: Your amendment under section 2, was this put in to cover all civil cases?

Bruce: Section 2 in the amendment is existing now. The amendment would require that in all cases where the future damages are in excess of \$50,000, the court is required to set up periodic payments.

Shelly Peterson, ND Long Term Care Assoc.: In support. We have been working with the Health Care Assoc. And the Medical Assoc. On this issue. We feel this bill would assure a fair and balanced market in ND. One for the consumer and one for the attorneys and one for citizens of ND. We have not seen a lot of litigation in the area of long term care. Nationally, it is exploding. We have seem a great increase in our general liability insurance premiums. In 2002 in ND, we had any where from 0% increase to over 472% increase. Today, our average per bed cost is \$300 per bed. Nationally, is \$2360 per bed. Last year we had a 90% increase in general liability insurance. In ND, the Medicaid government controls 96% of a facility's rate. The federal

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Medicare controls the other 4%. We see this legislation as positive. We are seeing that attorneys are getting 47% or of money settlement, so not much is left for the plaintiff.

Rep. Nelmeier: 41.4 If this is rare in ND, then why are your rates so high?

Shelly: That is what is going on in other states. The southern states have had huge claims. We had one major carrier pull out of ND.

Rep. Maragos Dist. 3: 43.6 oppose bill. I will leave this letter for you and read it into testimony from Richard McGee II Minot, ND (SEE ATTACHED TESTIMONY)

Dan Ulmer, BC/BS: opposed to bill. (SEE WRITTEN TESTIMONY)

Christine Hogan, Ex. Dtr. State Bar Assoc.: opposed bill (SEE WRITTEN TESTIMONY)

End of side A, Tape 1

Side B: John Olson, ND Trial Lawyers Assoc.: oppose bill (SEE TESTIMONY) This bill will not handle the malpractice insurance premiums crisis in the US. There is enormous investment by lawyers in malpractice cases. Too many hours. Only a few in ND will handle it.

Rep. Porter: 9.8. Can you run through how the client-attorney relationship is from day one?. What is the fair and reasonable cut, etc?

John Olson: That's a good question. It is common that the standard fee is 1/3 recovery in all cases. Some may raise the % if they go to trial. In medical malpractice cases, the cases are so complex and expensive. Thus, the fees are higher. I don't see any great offense in the contracts from ND lawyers and injured clients. The fees are discussed upfront right away to client. They are written down. The client takes the contract and review for a time so he/she is clear about fees.

Rep. Wieland: I did not know that ND law discourages frivolous medical malpractice law suits and that it requires a plaintiff to obtain a medical expert.

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John: That's right. There are experts out there in all area, not just medical malpractice. There is little success in these cases unless you get a medical expert who is believable, credible, and will be able to convince a ND jury or judge to win malpractice.

Rep. Neimeier: 18.1 Besides the insurance company and lawyer, who else can lay claim to the award?

John: May be a health insurance carrier, lean holder, other litigants.

Alvin Boucher, Atny, Grand Forks: 19.2 opposed to bill. (SEE WRITTEN TESTIMONY) I work with medical malpractice cases. This is what I do every day.

End of tape 1, side B This bill would put health care providers above others in the law. This is wrong and is not American justice. Do not pass this legislation Thank you..

(10 minute recess)

Paula Grosinger: ND Trial Lawyers Assoc.: oppose bill. Generally, ND has a good appeal to doctors coming in to ND. They are not afraid to practice here. (SEE WRITTEN TESTIMONY) I don't think there is a correlation between torte and malpractice premiums. It was brought up that CA has had success in keeping premiums low because of torte reform they passed in the 1980's. CA premiums still continued to rise until they passed Citizens Proposition 103. This was a mandated moratorium on increases in malpractice premiums. Nothing to do with torte reform legislation.

Vice-Chair Devlin: 9.5 Any further testimony. Seeing none, **HB 1458 is closed.**

(later today) **Chair Price:** Take out HB1458.

Rep. Porter: ND is ahead in the Torte reform game. **I move a DO NOT PASS.**

Rep. Potter: I second. **VOTE: 13 YES, 0 NO, 0 AB. Rep. Pollert will carry.**

LP

Date: Feb 12

Roll Call Vote #: 6

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB ~~1458~~ 1458

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DNP

Motion Made By Rep Poeter Seconded By Rep Potter

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig	✓	
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman	✓	
Rep. Robin Weisz	✓		Rep. Carol Niemeier	✓	
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Gary Kreidt	✓				
Rep. Alon Wieland	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Pollert

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

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Yolanda Richardson 10/16/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 12:14 p.m.

Module No: HR-27-2389
Carrier: Pollert
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1458: Human Services Committee (Rep. Price, Chairman) recommends **DO NOT**
PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1458 was placed on
the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-27-2389

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2003 TESTIMONY

HB 1458

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