

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1123

2007 HOUSE HUMAN SERVICES

HB 1123

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1123

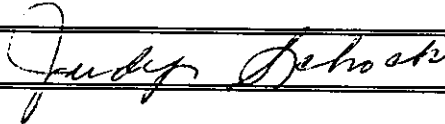
House Human Services Committee

Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1057

Committee Clerk Signature



Minutes:

**Chairman Price** opens HB 1123

**Dr. Jill Martinson-Redekopp:** I am here on behalf of the State Board of Optometry, and I practice in Minot, ND. See attached testimony, and added changes attached.

Committee has a few questions to clarify the amendments wanted.

**Nancy Kopp representing ND Optometric Association:** The ND Optometric Association has 128 members, out of 150 licenses. I appear in support of HB 1123. This is simply a house keeping bill. It does not alter the current practice of optometry in ND.

**Bruce Levi ND representing Society of Eye Physicians and Surgeons:** We also support the bill particularly with amendments clarify the definition of clinic.

**Chairman Price:** Questions of the committee? Anyone else in favor? Any opposition? We will close the hearing on HB 1123.

# 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1123

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1134

Committee Clerk Signature

*Judy Schock*

Minutes:

**Chairman Price:** Let's look over the two sets of amendments.

**Represent Uglem:** I make a move for both sets of amendments, second by **Represent**

**Kaldor** seconds the motion. Chairman asks for discussion. All in favor say I, none opposed.

**Representative Weisz** moves a do pass on amendments, **Representative Hofstad** seconds.

10 yeas, 2 nays, and 0 absent. **Representative Uglem** to carry the bill to the floor.

**House Amendments to HB 1123 (78122.0101) - Human Services Committee 01/16/2007**

Page 1, line 2, after the fourth comma insert "section 43-13-20,"

Page 1, line 13, overstrike "authorized to practice medicine in this state"

Page 1, line 14, after "~~applicable~~" insert "licensed under chapter 43-17"

**House Amendments to HB 1123 (78122.0101) - Human Services Committee 01/16/2007**

Page 2, after line 18, insert:

**"SECTION 6. AMENDMENT.** Section 43-13-20 of the North Dakota Century Code is amended and reenacted as follows:

**43-13-20. Term of license - Renewal - Annual license fee - Continuing educational requirements.** A license to practice optometry in the state may be issued for one year only, but may be renewed by paying to the secretary of the board, during the month of ~~January~~ December of each year, the license fee for ~~that~~ the following year, and ~~as of January 1, 1974,~~ by submitting satisfactory proof to the board that within the preceding three-year period the applicant has attended optometric educational programs as required by the board. The board shall grant an applicant an additional year in which to attend ~~such~~ the education programs if an applicant furnishes the board with sufficient proof that the applicant has been unable to attend ~~such~~ the education programs during a year, which proof ~~shall~~ must include a physician's certificate stating that the applicant was ill and that it would have been hazardous to the applicant's health to attend ~~such~~ the educational programs. The license fee for each year must be determined annually by the North Dakota state board of optometry and be a reasonable sum fixed by the board. The board shall adopt reasonable rules ~~which that~~ must state the type of optometric educational programs which are approved. The board also shall ~~also~~ designate the number of classroom hours which must be attended, which ~~will~~ must be a reasonable amount for each three-year period. Any person who does not meet these requirements by ~~February~~ January first of the year in which the license fee becomes due and payable is in default and may be reinstated by the board upon the payment of an additional sum reasonably fixed by the board, and upon the acceptance by the board of satisfactory evidence that the person has sufficiently attended approved optometric educational programs, and upon the compliance with other reasonable conditions the board may impose. ~~Nothing contained herein requires~~ This section does not require an applicant to become a member of the North Dakota optometric association or any other association of optometrists."

Page 2, line 25, after "optometrists" insert "or by licensed physicians"

**House Amendments to HB 1123 (78122.0101) - Human Services Committee 01/16/2007**

Page 3, line 4, after "optometrists" insert "or by licensed physicians"

Renumber accordingly

Jan 15

Date: 1/15  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES - HB 1123 Committee

Check here for Conference Committee

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

Action Taken Both sets of Amendments Mr. Fish  
marlison

Motion Made By Rep Uglem Seconded By Rep Kaldor

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) 2 "Click here to type Yes Vote" No "Click here to type No Vote"

Absent \_\_\_\_\_

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

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

Date: 4/15/05  
 Roll Call Vote #: 2

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."**

House HUMAN SERVICES HB 123 Committee

Check here for Conference Committee

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

Action Taken Do pass as amended

Motion Made By Rep Weisz Seconded By Rep Hofstad

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Kari L Conrad		
Vonnie Pietsch - Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hatlestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter					
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) 10 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 2

Floor Assignment Rep Uglem

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

**REPORT OF STANDING COMMITTEE**

HB 1123: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1123 was placed on the Sixth order on the calendar.

Page 1, line 2, after the fourth comma insert "section 43-13-20,"

Page 1, line 13, overstrike "authorized to practice medicine in this state"

Page 1, line 14, after "~~applicable~~" insert "licensed under chapter 43-17"

Page 2, after line 18, insert:

**"SECTION 6. AMENDMENT.** Section 43-13-20 of the North Dakota Century Code is amended and reenacted as follows:

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Page 3, line 4, after "optometrists" insert "or by licensed physicians"

Renumber accordingly



2007 SENATE HUMAN SERVICES

HB 1123

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1123

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-28-07

Recorder Job Number: 4132

Committee Clerk Signature

*Mary K Mowson*

Minutes:

Chairman Senator J. Lee opened the hearing on HB 1123 relating to regulation and licensing of optometrists.

Representative Clara Sue Price (District #40) introduced HB 1123. She referred to testimony from Dr. Jill Martinson-Redekopp (State Board of Optometry) and said they wanted to take a look at bringing the code up to current practice. She reported that there was no opposition in the House committee.

Nancy Kopp (ND Optometric Association) testified in favor of HB 1123. She presented written testimony from Dr. Jill Martinson-Redekopp who was unable to attend. (Attachment #1)

She said that their primary concern was to change the statute regarding the employment of optometrists. Currently statute indicates, in some areas, that it is not permissible for a hospital or physician to employ an optometrist. They would like those areas updated to reflect a current practice (meter 3:45).

Senator J. Lee asked if the employment area was in section 8.

Ms. Kopp said it was in section 7 and 8.

Senator J. Lee asked if now it was preventing hospital or clinics from employing optometrists and was really clarifying in 7 and 8 that it is possible to employ optometrists.

Ms. Kopp answered, yes. She wanted to assure the committee that nothing contained in this bill enhances or diminishes the practice of optometry.

Senator J. Lee asked if there was anything in the other sections that were amended that she wanted to specifically bring to the committee's attention or if it was mainly housekeeping.

Ms. Kopp answered that, in her estimation, it was totally housekeeping and allows for the board to hire an executive director. It brings accreditation by the American Optometric Association up to date. And it speaks to level licensure which was in the past. Currently there is only one level of licensure for optometrists.

(Meter 6:20) There was a short discussion on ophthalmologists being MD's and optometrists being OD's.

Bruce Levi (ND Medical Association) testified in support of HB 1123.

There was no opposing or neutral testimony.

The hearing on HB 1123 was closed.

Senator Warner moved a Do Pass on HB 1123.

The motion was seconded by Senator Heckaman.

Roll call vote 6-0-0. Motion carried. Carrier is Senator Heckaman.

Date: 2-28-07

Roll Call Vote #: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1123

Senate HUMAN SERVICES Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Sen. Warner Seconded By Sen. Heckaman

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

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Heckaman

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

REPORT OF STANDING COMMITTEE (410)  
February 28, 2007 3:41 p.m.

Module No: SR-38-4137  
Carrier: Heckaman  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1123, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1123 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1123

**Testimony to Human Services Committee 1/15/07**

Chairperson Representative Price and Members of the Human Services Committee, on behalf of the State Board of Optometry, I thank you for your attention this morning. My name is Dr. Jill Martinson-Redekopp and I have been practicing optometry in Minot since 1987. I am currently completing my 15<sup>th</sup> year with the State Board of Optometry and am serving as its President.

House Bill 1123 is primarily a house-keeping bill to update the Century Code with relation to the practice of optometry in the State of North Dakota. The Board chose to submit legislation this year as some of the requirements of the law are no longer up-to-date with the current practices of the Board. A review of the law also revealed a concern that many optometrists currently licensed in our state may be in violation of the law with respect to employment contracts as the Century Code reads to date.

Let me address the changes in our proposed legislation individually.

**SECTION 1. AMENDMENT (Page 1. Line 6)**

This section refers to Persons exempt from the Provisions of Chapter 43-13 which is the portion of the Century Code referencing Optometrists.

Subsection 2 refers to the exemption of students in accredited schools of optometry from the provisions of the Century Code. The word accreditation is added because the official title of the American Optometric Association committee includes the word "accreditation." The addition of the words or its successor agency is included as there is some discussion that the Accreditation Council on Optometric Education as we know it today may be restructured at some point in the future.

Subsection 3 strikes the confusing language of except that the provisions of section 43-13-28 remain applicable. This language is made unnecessary because of the clarification of section 43-13-28 which we will discuss in a moment.

**SECTION 2. AMENDMENT (Page 1 Line 17)**

This section would allow for the provision of an Executive Director for the Board of Optometry. Currently the board has a secretary who is practicing full time and also fulfilling the duties as Secretary of the Board. The duties are becoming more time-consuming than is reasonable for a member of the board to complete. The number of licensed optometrists in our state has grown to 208 licensees. Most licensing boards of our size are served by an executive director, yet our current law has no provision for this position.

The next two amendments to our practice act are also proposed to allow for the position of an Executive Director for the Board of Optometry.

**SECTION 3. AMENDMENT (Page 2 Line 3)**

This section adds the language or the secretary's designee in the event the duties have been delegated to another. This would require the position of an executive director to be a bonded position.

**SECTION 4. AMENDMENT (Page 2 Line 8)**

The addition of the words or the secretary's designee are to allow for the provision an Executive Director to be the caretaker of the records of the Board of Optometry.

Striking the words under permanent binding in line 10 would allow for electronic storage of the business records and registry lists of the board. The current law has been interpreted to mean that all records of the board must have paper documentation. Our current records are becoming too voluminous to store and we would like the language to reflect the more current business practices of electronic record retention.

**SECTION 5. AMENDMENT (Page 2 Line 15)**

This section's language was originally drafted when optometrists had 3 tiers of licensing in North Dakota. When the law was changed in 1987 authorizing optometrists to prescribe therapeutic medications, a three tiered licensing structure was put in place. The first category of licensing included optometrists who had not met requirements to use medications of any kind in the practice of optometry. The second category of licensing included optometrists who could use medications such as topical anesthetics and dilating agents used in the diagnoses of ocular conditions within an eye examination. The third tier of licensing included optometrists who could use diagnostic medications and medications to treat ocular disease such as infections and glaucoma. As this could potentially create confusion regarding prescriptive authority, the state board of optometry provided an annual list to the Board of Pharmacy regarding which optometrists could prescribe medications.

As of January 1, 2000, North Dakota became the first state in the nation to eliminate tiered licensing for optometrists. All optometrists since that time have been required to meet certain educational requirements and to be licensed for the full prescriptive authority as determined by North Dakota law. Since there is no longer any confusion about which doctors of optometry can use therapeutic medications to treat ocular disease, the State Board of Pharmacy no longer required a list delineating the authority of optometrists.

I have provided a copy of our proposed legislation to the State Board of Pharmacy and have spoken to their Executive Director Howard Anderson. They have not communicated any opposition to this change in the language of the Century Code.

**SECTION 6. AMENDMENT (Page 2 Line 21)**



Both of the following amendments are being proposed to clear up ambiguity in the law regarding employment of optometrists.

Section 43-13-22 provides the context under which the board may revoke or suspend a license to practice optometry. The current law states that grounds for license revocation would include accepting employment by an entity other than a licensed optometrist. By strict interpretation of the law, approximately 50 % of the optometrists in North Dakota could be in violation of the statute. We have licensees who are employed by a group of optometrists. We have licensees who are employed by hospitals. We also have licensees who are employed by clinics. We have licensees who are currently employed by single physicians and by a group of physicians. All of these optometrists could be technically in violation of the law if the current statute is left unchanged.

It is important to note that it is not the intent of the State Board of Optometry to dramatically change in any way the current practice modes that I have just mentioned. Instead it is our intention to clear up the *ambiguity* in the law as it currently reads.

The State Board is charged with protection of the public and we as a Board feel the need to clarify what forms of employment would be in the best interests of the citizens of North Dakota. The new language is intended to reflect this.

At this point, I must note that the original draft of our bill as sent to the Legislative Council also included the words "a clinic operated by physicians licensed under Chapter 43-17". This language is important as without its inclusion, again we are not addressing that mode of practice in North Dakota. Our board attorney spoke with John Walstad of the Legislative Council last week. It was his opinion that the deletion of the provision of a clinic operated by physicians was unintentional in the final draft of the bill as it left the Legislative Council.

For this reason the State Board of Optometry has prepared an amendment to House Bill 1123 reflecting the inclusion of employment by a physician operated clinic as an approved practice mode in North Dakota.

#### **SECTION 7. AMENDMENT (Page 2 Line 28)**

This section also relates to employment of optometrists. This lists prohibitions of optometric employment. Please refer to line 31. Striking the words other basis or by associating upon a lease or any addresses the current practice of optometrists who lease office space from an optical retail entity such as Walmart, Sears, JC Penney, Midwest Vision.

Current policies of the State Board of Optometry state that an optometrist may lease space from a commercial optical as long as the optometrist is an independent practitioner. This is intended to maintain the independent decision-making of an optometrist to better protect the interests of the citizens of North Dakota.

Again, it is important to note that it is not the intention of the Board of Optometry to say that an optometrist cannot practice next to a retail entity. The Board will continue to allow this practice mode as long as the optometrist is an independent practitioner. The way the current statute reads, an optometrist may be in violation of the statutes if they lease space from an entity.

The addition of the phrase except as permitted by the rules and regulations of the board is intended to provide a venue for other forms of employment and is not intended to restrict or interfere with the employment descriptions we have previously mentioned. We do feel that the description in Section 43-13-22 covers 98 - 99 % of the possible employment venues which would best be in the public interest. However, there may from time to time when an optometrist may wish to seek employment from a contact lens company or ophthalmic instrumentation manufacturer. In these instances, the Board may need to authorize an exception to 43-13-22. We as a Board feel that these instances may best addressed in the Rules and Regulations and not in statute.

The addition of the wording in lines 3 and 4 on page 3 of the House Bill are intended to reflect the changes in 43- 13- 22. Again I would refer to the proposed Bill Amendment to reflect the addition of "a clinic operated by physicians licensed under Chapter 43-17.

At this time, the State Board of Optometry would also like to propose an additional Amendment to House Bill 1123.

Please refer to Section 43-13-20. This is the section reflection continuing education and license renewal. The board wishes to change the wording to the month of December to reflect current practices. It is the belief that an optometrist should have all licensing fees paid prior to the issuance of a license as of January 1 of each calendar year.

Striking the reference to and as of January 1, 1974 deletes unnecessary language bringing the language up-to-date.

PROPOSED AMENDMENT TO HOUSE BILL NO. 1123

Page 2, after line 18, insert:

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Renumber accordingly

#1

Testimony to Senate Human Services Committee 2/28/07

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This section would allow for the provision of an Executive Director for the Board of Optometry. Currently the board has a secretary who is practicing full time and also fulfilling the duties as Secretary of the Board. The duties are becoming more time-consuming than is reasonable for a member of the board to complete. The number of licensed optometrists in our state has grown to 208 licensees. Most licensing boards of our size are served by an executive director, yet our current law has no provision for this position.

The next two amendments to our practice act are also proposed to allow for the position of an Executive Director for the Board of Optometry.

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**SECTION 4. AMENDMENT (Page 2 Line 9)**

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I have provided a copy of our proposed legislation to the State Board of Pharmacy and have spoken to their Executive Director Howard Anderson. They have not communicated any opposition to this change in the language of the Century Code.

**SECTION 6. AMENDMENT (Page 2 Line 24)**

This section references continuing education and license renewal. The board wishes to change the wording to the month of December to reflect current practices. It is the belief that an optometrist should have all licensing fees paid prior to the issuance of a license as of January 1 of each calendar year. Such practice is standard and customary for licensed professionals.

Striking the reference to and as of January 1, 1974 deletes unnecessary language bringing the statute up-to-date.

**SECTION 7. AMENDMENT (Page 3 Line 15)**

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The State Board is charged with protection of the public and we as a Board feel the need to clarify what forms of employment would be in the best interests of the citizens of North Dakota. The new language is intended to reflect this.

**SECTION 8. AMENDMENT (Page 3 Line 25)**

This section also relates to employment of optometrists. This lists prohibitions of optometric employment. Please refer to line 31. Striking the words other basis or by associating upon a lease or any addresses the current practice of optometrists who lease office space from an optical retail entity such as Walmart, Sears, JC Penney, Midwest Vision.

