2013 HOUSE HUMAN SERVICES

HB 1071

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1071
January 28, 2013
17823

☐ Conference Committee

Jocelyn Gallagher

Explanation or reason for introduction of bill/resolution:

Relating to licensing procedures to obtain a registration under the Uniform Controlled Substances Act and provide a penalty.

Minutes: Attached testimonies #1, 2, 3, 4, 5, 6

Chairman Weisz: opened the hearing on HB 1071

Mark J. Hardy, PharmD, Assistant Executive Director of ND State Board of Pharmacy testified in support of the bill. (See Testimony #1 and Handout #2) (0.36 - 7:34)

Rep. Fehr: (7:41) To what extent does this program address that issue and given its been in place since 2007 to what extent can you point to data that says we've been effective in making a difference?

Mark Hardy: Since its exception the Prescription monitoring program one statistic of the usefulness of the program is we sent out unsolicited reports on patients that saw more than 6 prescribers within the last 6 months. When the program first started it was over 300 patients that we would send reports on, now were down to 100 patients per month.

Rep. Porter: What consideration was given that most of those fees will be paid by the facility anyway?

Mark Hardy: It is true the facilities are paying the bills for most practitioners who are out there, however we would like for individual practitioners to be paying the bill. Unfortunately we don't have a way to mandate that, it gets back into the ownership piece as far as utilizing the program. It is true it will fall on the facilities in a large way.

Rep. Porter: A pharmacist is listed where here?

Mark Hardy: They aren't listed.as an individual. They cannot prescribe controlled substances and not able to have them under their own authority. It must be within the context of a pharmacy. The pharmacy, not the pharmacist are the only ones authorized to have the controlled substances.

Mike Schwab, Executive Vice President of the ND Pharmacists Association: testified in support of the bill. (See Testimony #3) (12:35 - 14:10)

Chairman Weisz: Further support in favor of HB1071? Those in opposition?

Marnie Walth, A Sanford Health Innovation Officer: testified in opposition to the bill. (See Testimony #4) (15:00 - 17:03)

Dr. Chris Meeker: An emergency medicine doctor at Sanford Health in Bismarck (See Testimony #5) (17:14) testified in opposition of the bill.

Rep. Mooney: (22:00) Why do you think it would be necessary or that it's even coming forward to us to have a duplicate to process that's already in place by the DEA?

Dr. Meeker: I don't think it is necessary to do that. The genesis of this bill is to find a mechanism to fund the ND prescription drug monitoring program, we are for that. What we are not for is the language of the registration process.

Rep. Keifert: Would this bill raise the level of accountability to the prescribers of these drugs regarding abusers?

Dr. Meeker: I don't see how it would, because our prescriptions are already tracked.

Chairman Weisz: Further opposition?

Jon Vastag, represents the Health Policy Consortium: Testified in opposition to the bill. We are opposed to the fee structure. We cover approximately 80% of the care across the state. We will carry a financial burden of these fees. We support the prescription drug monitoring program but not the proposed funding in this bill.

Rep. Fehr: What would you support as a mechanism to fund it since you support the program?

Jon Vastag: Some potential to use a percentage of tobacco funds is an option.

Katie Cashman, Communications Director for the ND Medical Association: testified in opposition to the bill. (See Testimony #6) (25:17- 27:10)

Rep. Oversen: As practitioners, do they currently have to pay a fee to have the DEA registration?

Katie Cashman: There is no mandatory registration right now.

Rep. Oversen: Is there a fee that goes to the DEA when you register?

Katie Cashman: Yes

Rep. Oversen: Is there any other registrations that physicians are required to have that would be both at the federal and state level?

Katie Cashman: No

Matthew Zimny, emergency medicine physician at Sanford in Bismarck: In opposition of 1071. Every state has a different licensing structure, there is no federal oversight the covers all 50 states. There are some education requirements that are national. Licensing is all at the state and then DEA at the federal level.

Chairman Weisz: Further opposition? Closed hearing on HB 1071.

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1071
February 13, 2013
Job #18861

☐ Conference Committee

Committee Clerk Signature Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

Relating to licensing procedures to obtain a registration under the Uniform Controlled Substances Act and provide a penalty.

Minutes:

Chairman Weisz opened the meeting on HB 1071.

Rep. Porter: On page 6, the felony, the failure to register side of it and the provider tax going out to various providers to pay for the registry. I have a big issue with that. The Board of Pharmacy came and asked us to put the registry in place and had a mechanism to pay for it within their board. Now they want to send it out to the providers. It is not 100% participation yet all providers would have to pay for it.

Chairman Weisz: What about all the other parts?

Rep. Porter: If we can get rid of those parts I can change my opinion. My first thought is to kill the bill.

Rep. Mooney: I agree.

Rep. Oversen: Many other states have this registration. I don't think we should shoot this down without giving it another shot or action plan to get to a solution isn't fair. We need to look a little closer at it.

Rep. Silbernagel: You talk about the mechanism that was put into place and could you explain that for my benefit?

Rep. Porter: On the Board of Pharmacy testimony, there was authorization to start the prescription drug monitoring program. There is a data base that collects the information so you can track potential abuse. The emergency departments seem to use it the most.

Rep. Silbernagel: Where is the revenue generated to fund this?

Rep. Porter: When it was moved to on-line the Board of Pharmacy wanted this program. It is a program to tract these prescriptions. They had reserves inside of their board and we gave them the permission to start the program as a voluntary program, but they were covering the cost. They are now asking us to allow them to tax all providers to recoup their money. They are taxing 100% when 100% don't use this.

Chairman Weisz: You may use it, but you don't have to participate. Under this everyone will participate even if they don't use it.

Rep. Fehr: If you kill this bill what will happen to this program?

Chairman Weisz: The board will have to fund it through their resources.

Rep. Muscha: What percentage of participation do they have now?

Rep. Porter: I believe it was told 40%.

(Someone from the audience said, under 30%.)

Rep. Mooney: Isn't this a duplicate program to the DDA who has a mandatory one?

Chairman Weisz: Yes and no. I look at this as a way we pay for the PDM program. We can say we should assess the whole medical community for funding. If we think that then we may look at, are some of the other provisions in place reasonable or should the whole medical community be responsible for paying for the PDM program. If not, the bill is not necessary in any form.

Rep. Porter: I move a Do Not Pass.

Rep. Mooney: Second.

Rep. Porter: I want to qualify that I don't have a problem with the program. I think the due diligence of the board is to work with those provider groups in the interim and then come to us with something that everyone is on board with.

Rep. Fehr: It looks like the included a lot of cleanup language in this bill. I don't know if all these definitions are needed just for funding the program. If they would have come with two separate bills, we could have looked at that and had no problem. I'm a little concerned if we don't clean up the language.

Chairman Weisz: I don't disagree with you. There was hardly any testimony on the rest of the language. Is some of this language even necessary if we eliminated the registry? I don't know either.

Rep. Fehr: Good point.

Rep. Oversen: Is it appropriate for us to ask someone here to answer that question?

Mark Hardy: Assistant Executive Director to the Board of Pharmacy. As far as the language in there if you decided this bill isn't something you want to move forward with, the language changes would not be necessary. They are not outside of the bill. Certainly they were meant to clear up any confusion with the registration so they had a complete idea of what is going to be implemented.

Chairman Weisz: Thank you for clarifying that for us.

Rep. Hofstad: It looks to me as though their financials can sustain another two years as they look at this.

Chairman Weisz: I would hope the board could sit down with the other players and come to some consensus on this.

Rep. Silbernagel: There is a problem that exists out there. I think this type of program helps address it. I hope if we kill this bill that in two years there is some strength in this program.

Chairman Weisz: The program is not going away and it is a good program.

ROLL CALL VOTE: 13 y 0 n 1 absent

MOTION CARRIED

Bill Carrier: Rep. Silbernagel

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

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1071

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. Mooney

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) 13 No 0

Absent 0

Floor Assignment Rep. Silbernagel

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

REPORT OF STANDING COMMITTEE

HB 1071: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1071 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1071

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BOARD OF PHARMACY
State of North Dakota

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Mark J. Hardy, PharmD, R.Ph.
Assistant Executive Director
Howard C. Anderson, Jr, R.Ph.
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House Bill No. 1071 – Controlled Substances Registration
House Human Services Committee – Fort Union Room
January 28, 2013 – 10:00AM

Chairman Weisz, members of the House Human Services Committee, for the record I am Mark J. Hardy, PharmD, Assistant Executive Director of the North Dakota State Board of Pharmacy. I appreciate the opportunity to be here to speak to you about House Bill 1071.

This bill is unique in that the current Century Code states that –"the Board of Pharmacy shall issue a controlled substance registration." I have included the current statutes in the packet. It appears this current legislation was passed in 1971. Originally there was a Controlled Substance Board which met regularly, but under former Governor Schafer the duties were assigned to the Board of Pharmacy and at that time a registration was deferred to the Drug Enforcement Administration registration. Currently 42 states have a controlled substances registration. There are good reasons why states have controlled substance registrations. Controlled Substance Registrations are essentially creating the same closed system that the federal DEA has, but is specific to the state. Therefore, controlled substances can only be manufactured and marketed if that manufacturer has a state registration, shipped by a wholesaler if that wholesaler has a state registration, shipped from the wholesaler to the pharmacy upon state registration by the pharmacy and the pharmacy can only dispense controlled substance prescriptions only pursuant to the practitioner having a state registration. This also encompasses other individuals who may handle controlled substances, such as researchers, dog handlers or canine trainers, narcotic treatment programs (HB 1101) and facilities that keep a stock of controlled substances for use within the facility. They are meant as a tool to prevent diversion on an individual state level

The added language to the bill is to clarify and specifically address all the different registrations and groups of registrations that would be necessary, along with ensuring the language is specific to what the Board of Pharmacy envisions implementing. The way the legislation is written, we feel there would not be any requirement to adopt administrative rules to implement the controlled substance registration. We also wanted to bring this to you for your approval and ensure that all the stakeholders would have the appropriate information on what the Board of Pharmacy's intentions are by putting this in place, including the fees, which are listed on the last page of the bill. The current statute would allow us to implement the registration by a rule making process, but the Board wants the legislature approval since this has not been enforced in the past.

The intentions of the fees collected with the controlled substance registration are to fund the Prescription Drug Monitoring Program [PDMP] something the Board has been discussing for a long period of time and has presented it to the PDMP Advisory Board. As you may know, the PDMP is a secure and HIPPA compliant online data base that is used to improve patient therapy and the state's ability to identify and inhibit the diversion of controlled substances and medications of concern in

'an efficient and cost effective manner, which should not impede the appropriate utilization of these medications for legitimate medical purposes.

There are now 49 states in our nation that have a PDMP in place and studies are showing their ever increasing effectiveness. They are intended to enhance patient care and protect public safety. Data in the PDMP is submitted by dispensers and is available in a patient specific format to practitioners pharmacists, licensed addiction counselors in a state licensed program, Medicaid, Workforce Safety for their clients and law enforcement pursuant to an active investigation. Individuals, or their parents or guardians may also request information on themselves.

North Dakota's PDMP was started in 2007 with the help of the federal Harold Rogers Implementation Grant. Since 2009 the State Board of Pharmacy has funded the program with our reserves. The reason for using our reserves was based on the feedback we received from you, the legislature, on spending down a portion of the board's reserves before we came before you to request another source of funding for this program. We have reached the point where we have to seek long-term funding for this program, as it has proven to be an essential tool for all those that utilize the PDMP on a daily basis.

The previous annual fiscal years the expenses of the PDMP were $157,675, $152,323, and $142,009 respectfully. The breakdown of the proposed revenue from the Controlled Substances Registration is:

Registration Group	**# Licensed**	**Cost/year**	**Revenue**
Practitioners (MD,FNP, OD, DO, DVM, etc)	3432	30	$102,960
Pharmacies (licensed)	600	30	$18,000
Facilities (DEA registered)	69	30	$2,070
Manufactures and Distributors	700	75	$52,500
Researchers	17	30	$510
Canine Handlers/trainers	11	20	$220
TOTAL ANNUAL REVENUE			**$176,260**

As you can see, this will generate the funds necessary to operate the PDMP and allow a modest cushion for enhancements to the program as we feel is necessary. The Board believes the Controlled Substance Registration is the best way to fund the PDMP for these reasons. One of the reasons is if a pharmacy or practitioner is paying a fee that they know is designated for the PDMP, if they do not utilize the program, they may be more inclined to use it in their practice. In other words they would have ownership in the PDMP and it may overcome some of the low participation rates that we are encountering.

The Board anticipates there will be dissention to the legislation and the fees that go along with it. The Board feels the legislation provides the proper framework to help in the monitoring of the movement of controlled substances within our state. We also feel these fees are not burdensome for the benefit of the risk management and patient care tool that is provided by the PDMP. I feel all will agree though the PDMP is a powerful tool that needs to be available for the highest level of care to our residents.

I will be happy to answer any questions you may have.

19-03.1-16. Registration requirements.

1. Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state shall obtain annually a registration issued by the board in accordance with its rules.
2. Persons registered by the board under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this chapter.
3. The following persons need not register and may lawfully possess controlled substances under this chapter:
   a. An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if an agent or employee is acting in the usual course of an agent's or employee's business or employment.
   b. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.
   c. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.
4. The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.
5. A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.
6. The board may inspect the establishment of a registrant or applicant for registration in accordance with the rules of the board.

19-03.1-17. Registration.

1. The board shall register an applicant to manufacture or distribute controlled substances included in sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, and 19-03.1-13 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:
   a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
   b. Compliance with applicable state and local laws;
   c. Any convictions of the applicant under any federal and state laws relating to any controlled substance;
   d. Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;
   e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
   f. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and
   g. Any other factors relevant to and consistent with the public health and safety.
2. Registration under subsection 1 does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.
3. Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The board need not require separate registration under this chapter for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this chapter in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the state department of health evidence of that federal registration.
4. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this chapter.

19-03.1-17.1. Criminal history record checks.

The board may require an applicant for registration or a registrant whose registration is subject to revocation or suspension or employees or officers of an applicant or registrant to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be

conducted in the manner provided by section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or registrant.

19-03.1-18. Revocation and suspension of registration.

1. A registration under section 19-03.1-17 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:
   a. Has furnished false or fraudulent material information in any application filed under this chapter;
   b. Has been convicted of a felony under any state or federal law relating to any controlled substance; or
   c. Has had the registrant's federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.
2. The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.
3. If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefore, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.
4. The board shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

19-03.1-19. Order to show cause.

1. Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause must contain a statement of the basis therefore and must call upon the applicant or registrant to appear before the board at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order must be served not later than thirty days before the expiration of the registration. These proceedings must be conducted in accordance with chapter 28-32 without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration do not abate the existing registration which remains in effect pending the outcome of the administrative hearing.
2. The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 19-03.1-18, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension continues in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.

19-03.1-20. Records of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the board issues.

ND Board of Pharmacy
Income Statement - Actual vs. Budget
PDMP
For the Twelve Months Ending June 30, 2010

	YTD Actual	Budget
Revenue:		
Miscellaneous Income	$275	
Total Revenue	*275*	
Operating Expenses:		
Employee-Related Expenses:		
Payroll Expenses	6,842	
Salaries Expense	53,194	
Total Employee-Related Expens	*60,036*	
Other Operating Expenses:		
Expense	3,293	
Consultants/ Contracts Expense	6,277	
Insurance Expense	3,551	
Travel/Meeting Expense	2,403	
Total Other Operating Expenses	*15,524*	
Total Operating Expenses	*75,560*	
Income(Loss)	*($75,285)*	

Income Statement - Actual vs. Budget
Enhancement
For the Twelve Months Ending June 30, 2010

	YTD Actual	Budget
Revenue:		
Income	$82,529	
Total Revenue	*82,529*	
Operating Expenses:		
Employee-Related Expenses:		
Other Operating Expenses:		
Expense	222	
Consultants/ Contracts Expense	65,210	
Travel/Meeting Expense	16,958	
Total Other Operating Expenses	*82,390*	
Total Operating Expenses	*82,390*	
Income(Loss)	*$139*	

ND Board of Pharmacy

Income Statement - Actual vs. Budget
PDMP
For the Twelve Months Ending June 30, 2011

	YTD	
	Actual	*Budget*
Revenue:		
Operating Expenses:		
Employee-Related Expenses:		
Payroll Expenses	$7,002	
Salaries Expense	52,573	
Total Employee-Related Expens	*59,575*	
Other Operating Expenses:		
Expense	3,297	
Consultants/ Contracts Expense	75,512	
Insurance Expense	10,393	
Travel/Meeting Expense	3,546	
Total Other Operating Expenses	*92,748*	
Total Operating Expenses	*152,323*	
Income(Loss)	*($152,323)*	

ND Board of Pharmacy
Income Statement - Actual vs. Budget
PDMP
For the Twelve Months Ending June 30, 2012

	YTD Actual	YTD Budget
Revenue:		
Miscellaneous Income	$1,859	
Total Revenue	**1,859**	
Operating Expenses:		
Employee-Related Expenses:		
Payroll Expenses	5,758	7,795
Salaries Expense	36,604	35,050
Total Employee-Related Expens	**42,362**	**42,845**
Other Operating Expenses:		
Expense	5,267	5,000
Consultants/ Contracts Expense	77,314	93,104
Insurance Expense	11,098	12,782
Travel/Meeting Expense	7,827	6,000
Total Other Operating Expenses	**101,506**	**116,886**
Total Operating Expenses	**143,868**	**159,731**
Income(Loss)	**($142,009)**	**($159,731)**

NORTH DAKOTA STATE BOARD OF PHARMACY

STATEMENTS OF CHANGES IN NET ASSETS
FOR THE YEARS ENDED JUNE 30, 2011 AND 2010

	Unrestricted		Capital	
	Undesignated	Designated	Assets	Total
June 30, 2009	$ 616,568	$ 380,312	$ 20,887	$ 1,017,767
Excess of revenues over expenses	(70,345)	-	-	(70,345)
Equipment acquisitions	(23,076)	-	23,076	-
Depreciation	11,521	-	(11,521)	-
Increase designated net assets	(212,518)	212,518	-	-
June 30, 2010	322,150	592,830	32,442	947,422
Excess of expenses over revenues	(132,964)	-	-	(132,964)
Equipment acquisitions	-	-	-	-
Depreciation	14,309	-	(14,309)	-
Increase designated net assets	(129,947)	129,947	-	-
June 30, 2011	$ 73,548	$ 722,777	$ 18,133	$ 814,458

See Notes to Financial Statements

BOARD OF PHARMACY
State of North Dakota

Jack Dalrymple, Governor

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#12

HB 1071 – Proposed Amendments

Page 10 – Line 15 Strike word "including" and replace with excluding
The Board feels the state registration should be consistent with how the DEA treats ambulances and emergency kits. These kits are currently defined in our administrative rules. We will ask the pharmacies to divulge where these kits are located upon registration.

Page 10 – Line 31 Insert "of human services"
This would be consistent with HB1101, as the Department of Human Services will be the entity licensing these programs. Currently the "department" is defined as the Department of Health.

NDPhA
NORTH DAKOTA
PHARMACISTS
ASSOCIATION

#3

House Bill 1071 - Controlled Substances Registration

House Human Service Committee – Fort Union Room

January 28, 2013

Chairman Weisz and members of the House Human Services Committee, for the record, my name is Mike Schwab, Executive Vice President of the North Dakota Pharmacists Association. I am here today in support of HB 1071.

As you may know, the ND Board of Pharmacy has been discussing controlled substance registration for a number of years. As an Association, we have watched the majority of the states implement controlled substance registration. I believe there are currently 42 states that have a controlled substance registration process. As an Association, our members recognize the problems with drug diversion and controlled substance abuse. We feel implementing a controlled substance registration process would be beneficial in helping to create a more secure and efficient controlled substance system in ND.

It is no secret that there is a "fee" for anyone who holds a DEA license under this proposed legislation, which includes pharmacies. The vast majority of our members feel $30 per year is quite reasonable, especially when compared to our surrounding states (MN $50 annually, SD $150 annually, MT $100 annually).

The ND Pharmacists Association also supports the Prescription Drug Monitoring Program (PDMP). We feel it is an extremely useful tool, especially in helping to stop doctor shopping for controlled substances. We further support the ND Board of Pharmacy's intention to use the fees collected under this bill to support the ongoing expenses associated with PDMP.

I would like to thank you for your time and attention this morning. I would be happy to try and answer any questions you may have.

Respectfully Submitted,

Mike Schwab

Mike Schwab
NDPhA

#4

Testimony
House Bill 1071
Human Services Committee
Monday, Jan. 28, 2013

Chairman Weisz and members of the Committee, good morning. My name is Marnie Walth; I am Sanford Health's Innovation Officer. I am here today to testify in opposition to House Bill 1071, relating to licensing procedures to obtain a registration under the Uniform Controlled Substances Act.

With me today is Dr. Chris Meeker, a board-certified emergency medicine doctor at Sanford Health in Bismarck. Dr. Meeker also serves as chief medical officer and chief quality officer for Sanford Health Bismarck.

Though Sanford Health fully supports all efforts to thwart medication abuse, including the North Dakota Board of Pharmacy's prescription drug monitoring program, we object to the licensing structure and fee structure proposed in this bill. Simply put, creating a separate licensing function as a funding mechanism and shifting the cost to physicians and other medical providers is not appropriate.

For North Dakota's prescription drug monitoring program to be effective, the program needs to be more widely used. Current utilization by medical providers and pharmacies throughout the state affords much opportunity for improvement. Applying the burden of fees and resources to complete licensing processes is not a step in the right direction. Further, the bill's proposed criminal charges against physicians do not seem appropriate when a potential error in paperwork could result in a physician being charged with a felony.

Sanford Health supports the board's efforts to decrease prescription drug abuse and criminal activity, but we reject the notion that physicians be saddled with unnecessary processes that, accumulatively, hinder their ability to provide patient care. We support a more direct appropriation, perhaps a general fund appropriation, without creating an additional government function to justify taxing physicians and others.

Thank you Chairman Weisz and members of the committee. I would now like to call on Dr. Chris Meeker, an emergency medicine doctor at Sanford Health in Bismarck.

HB1071

#5

Dr. Chris Meeker

1) Gives the board of pharmacy the ability to severely limit the practice of medicine of a prescriber by denying registration as the ability to prescribe is fundamental to the practice of medicine. The board of pharmacy controls the registration document and determines eligibility criteria.
2) Would force a prescriber to immediately stop practice if deadline for registration is missed or face being charged with a class C felony with the potential for severe, direct effects on patient care.
3) Reinstatement of a suspended or revoked registration may only be approved by the board of pharmacy if in the public's best interest, subjectively allowing the board of pharmacy significant influence on the prescriber's ability to practice.
4) Serves no useful function beyond the registration already required by the Drug Enforcement Agency. LICENSE/DEA → NO REL ? OR UNNECESSARY.
5) Could place additional burdens on finding short notice coverage if locum tenens physicians are licensed in North Dakota but not registered with the board of pharmacy.
6) Presents additional fees and paperwork which do not improve patient care. 55% late fee charge is excessive.

#6

NDMA
NORTH DAKOTA MEDICAL ASSOCIATION

House Human Services Committee

House Bill 1071

January 28, 2013

Chairman Weisz and Committee Members, I'm Katie Cashman and I am the communications director for the North Dakota Medical Association (NDMA). The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students. The North Dakota Medical Association is opposed to HB 1071.

NDMA is very supportive of the Prescription Drug Monitoring program (PDMP). At NDMA's annual meeting in October, we held a Continuing Medical Education seminar focusing on opioid abuse and the PDMP. Mark Hardy from the Pharmacy Board presented, along with Duane Houdek from the Board of Medical Examiners and an officer with the Attorney General's office. NDMA brought in a national expert to discuss how to effectively treat patients with opioids. We also had a panel of practitioners discussing issues of treating patients with pain. NDMA takes the nation's prescription drug problem very seriously and the PDMP is a very effective tool in managing this problem.

However, NDMA is opposed to HB 1071. The licensing mechanism duplicates existing controls in place with the Drug Enforcement Administration (DEA) and the

state licensing boards and creates a whole new bureaucracy that would have to oversee thousands of practitioners that the pharmacy board does not currently cover. The extra time to process the applications will be significant to the provider community. This also requires all providers, regardless of whether they need to use the PDMP, to register, maintain and pay for a license with the state, in addition to their own state licensing board.

This license, as proposed, is an unwarranted intrusion into the licensing process. There is no need to have a separate license for all the state providers which duplicates the existing process with the DEA and the separate licensing boards of health care providers.

Thank you for the opportunity to present NDMA's views on this bill. I would be happy to answer any questions.