2019 HOUSE JUDICIARY COMMITTEE

HB 1253

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1253
1/15/2019
30817

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek by Nicole Klaman

Explanation or reason for introduction of bill/resolution:

Relating to a criminal conviction and state licensure.

Minutes: 1,2 ,3, 4,5,6,7,8,9

Chairman K. Koppelman: Opened the hearing on HB 1253.

Representative Tom Kading: **See Attachment #1**; Read in support testimony.

Vice Chairman Karen Karls: I have sat on the licensing board. Some are very difficult due to criminal history. Discussed a specific situation.

Rep. Kading: This bill mainly addresses a person with a criminal background to petition the board prior to receiving training to see if their criminal history will disqualify them.

Vice Chairperson Karls: In cases like this a lot of times they are given training in prison. Who is liable if something would happen and they were to repeat offend under that licensure? If something happens to

Rep. Kading: I'm uncertain what that answer is.

Michelle Kommer, Commerce Commissioner: **See Attachment #2** Read Testimony in support. Do have an amendment recommendation on this bill. There is a provision in the bill to make a consideration for criminal convictions. This legislature was modeled after a piece of AZ legislation that is working well. This is offering consistency for people with these offenses a pathway to determine if they will qualify for licensure before seeking training.

Representative Steve Vetter: Where is the amendment?

Michelle Kommer: Page 4, line 18, Section 13 on my testimony on the back.
The purpose is for transparency. It poses a mandatory reporting system, so we can offer a better understanding of the types of offenses that are receiving denials or acceptances for licensure. There is no one agency that oversees the different types of licensing available, which makes it hard to understand the limitations/requirements as they may vary.

Chairman K. Koppelman: You want the licensing entities to report it to you? Is there something else in the bill that we would need to clarify?

Representative Rick Becker: Would you have a problem if we changed it to felonious sex crimes.

Michelle Kommer: I believe that is already in there as felony charges. I would defer that to you.

Representative Terry Jones: Back to the Dept. of Commerce and creating the reporting requirement. You will have the ability to notify that this is how to have this done. Is that right?

Michelle Kommer: I just want greater clarity to the number of work agencies that exist today that we have to deal with.

Rep. Jones: How can we make that clear? You should help us do that.

Phil Davis, Manager of Job Service ND: We see this often they may have the training, the experience, but cannot obtain the licensure. Without the licensure they are unable to utilize their training. Then we are trying to find an employer who will take them unlicensed or going backwards in their career placing them in other industries.
We have a program where we provide training, but we do not know their background. So it certainly is an issue all around.

Chairman K. Koppelman: You talked about the difficulty to gain credential? The purpose of the bill is to get some information on the front end to make sure they are aware if their criminal background will bar them from licensure. Is there a bottleneck in the middle of that?

Phil Davis: We don't see that. We just connect the job seeker with the employer.

Chairman K. Koppelman: Are you seeing any change in the market place where employer attitudes are becoming more willing to consider than they were a few years ago?

Phil Davis: Once they get to the background check is where we run into problems up front. As far as the bottleneck we are seeing more and more customers coming into our office and if you do not have a criminal background you are going to get a job. It's the criminal background, drug issues, mental health history scenarios that seem to require more help.

Chairman K. Koppelman: Discussed situations that this could happen.

Phil Davis: Discussed a story where we were able to assist a lady who got out of prison. She went through a training program for welding and held two certificates. Once applied and interviewed, they ran background and her 9-year-old drug conviction came up. Employer would not take a chance on her.

Opposition:

Rebecca Forde, ND Board of Massage Therapy: **Attachment #3** Read opposed testimony (Stopped 31:00)

Chairman K. Koppelman: Your main concern is liability exposure? If there were protections for that would that satisfy your concern?

Rebecca Forde: No it does not because we have a responsibility to protect the public. We should have as much access to as much information as we can to an individual application.

Chairman K. Koppelman: How would they have known?

Rebecca Forde: We as a board would review it.

Corey Kost, Vice chair of the ND Real Estate Appraiser Qualifications and Ethics Board: **Attachment #4** Read opposed testimony (Stopped 38:40)

Rep. Vetter: If fraud and theft were listed and it was raised from 3 to 5 years, there would you oppose this bill?

Corey Kost: Raising the timeline from 3 to 5 years is mandatory for us to maintain compliance with the appraisal subcommittee for federally related transactions. So that would be an absolute minimum. Adding theft and fraud, that would be a cause for concern to us. we do have concerns about the bill continually references "moral character". This is not a defined term. May be the definition of that term would be helpful. If there was a definition, we would take another look at it.

Chairman K. Koppelman: What is your certification called that you were worried about compromising?

Corey Kost: Concerned about maintaining compliance with the appraisal subcommittee.

Chairman K Koppelman: And that is a Federal Law? Consequences if noncompliant?

Corey Kost: Yes. If we fall out of compliance, we will no longer be able to provide appraisals for Federally related transactions.

Chairman K. Koppelman: You mentioned recommendations, so what is that?

Corey Kost: ASC refers to these as recommendations because they enlist your rights. Basically giving you the option to be out of compliance. And it's not a good option.

Chairman K. Koppelman: Are Arizona appraisals now?

Corey Kost: Arizona is in compliance. Only one state, that I'm aware of, is close to being out of compliance.

Chairman K. Koppelman: This bill seems to have 2 objectives. 1 to lessen the stringency exercised by certain boards. The other piece seems to be a "heads up" for lack of better

terminology. Do you have any objective to the 2nd part referenced? Would this prohibit me from becoming an appraiser?

Corey Kost: The intent is supported by the board. The methods of achievement that is our concern.

Lawrence King; Member of ND Board of Law Examiners: Proposed amendment: **See Attachment #5** Opposed and why. Amendment excludes ND Supreme Court and the Board of Law from the provision, as it has always stood alone. In addition, Per Century Code 27-11-03.1 there is a provision that states conviction is not a bar to certification. cause for Workforce is not the issue.

Chairman K. Koppelman: Why do you feel this pertains to you if you are exempt in other areas?

Lawrence King: Because we aren't specifically exempt from this. The proposed amendment I submitted exempts us out specifically. Discussed the amendment proposal.

Lisa Blanchard; Executive Director, ND State Board of Chiropractic Examiners: **See Attachment #6.** Read opposed testimony.
(Stopped 53:38)

JoDee Wiedmeier, Executive Director ND Board of Podiatric Medicine: **See Attachment #7** Read opposed testimony.
(stopped 1:00)

Chairman K. Koppelman: What is your comment when someone went through the schooling to be a chiropractor only to be told their background history may inhibit obtaining licensure?

JoDee Wiedmeier: That would be very unfortunate. I feel that licenses denied for many reasons but I don't think our board has ever denied anyone to try to prevent someone who is well qualified.

Chairman K. Koppelman: How are you funded?

JoDee Wiedmeier: It is by taxpayers in general.

Representative Gary Paur: Some medical professions require background upon schooling. Does podiatry?

Rep. Jones: In your application process upfront with a list of things that would disqualify them?

JoDee Wiedmeier: No we do not have a specific list at the beginning of the application. However, there are questions surrounding a multitude of things, convictions being one of them. Further review is offered if this is answered yes. However, everyone is considered.

Representative Aaron McWilliams: How many people a year apply for a podiatry licensure?

JoDee Wiedmeier: One to two a year.

Kurt Snyder, Chair of ND Board of Addiction Counseling Examiner: **See Attachment #8**
Read opposed testimony.
(Stopped 1:09:34)

Bonnie Storebakken, Executive Secretary for ND Board of Medicine: **See Attachment #9**
Read opposed testimony.
(Stopped 1:13:20)

Chairman K. Koppelman: Your liability point is well taken.

Chairman K. Koppelman: closed meeting

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1253
1/23/2019
32595

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek by Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to a criminal conviction and state licensure.

Minutes: 1,

Chairman K. Koppelman: Opened the meeting on HB 1253 and presented a proposed amendment 19.0588.01001 as Attachment 1 for discussion.

Rep. Vetter: Is this exempting chiropractor board, the appraisers, podiatry?

Chairman K. Koppelman: It's not exempting them. This would give liability protection to the board so they wouldn't open themselves up to a lawsuit by given a general opinion south earlier.

Technical correction on a bill we moved a verbal amendment to make it retroactive- that language did not get on the bill so LC said we'd already voted, already on the way to the Senate, and what to do. To correct it, we have to get it back from the Senate, go back on the 6th Order with corrected amendment, then to 11th Order.

Rep. Vetter: **4:00** This amendment is an attempt to take care of concerns of the boards and explained the amendment (attachment 1) (tape fades in and out multiple times).
Moved to adopt the amendment .01002.

Rep. Satrom: Second.

Chairman K Koppelman: We have a motion and a second to adopt the amendment. Discussion?

Rep. Hanson: Sounds like this will address concerns of ND Board of Medicine, some national organizations, appraisers, how about other organizations against it. Would their concerns be alleviated, addiction counselors, podiatry, chiropractors, law examiners?

Rep. Vetter: it's not all resolved.

Rep. Becker: I wonder if it does quality because I don't think you can go straight to law school from high school. I don't think it requires a Bachelor's but does require some years of college. So it does fall under the category.

Rep. Roers Jones: I don't think there's a good way to make this workable.

Chairman K. Koppelman: voice vote on the amendment, all in favor, aye, opposed? Motion carries.

Rep. Becker: It seems there are 2 primary components to this bill. (1) addressed in Sections 1 and 2. (2) this petitioning thing, I'm concerned about that. Someone can petition the board if anything they've done in the past would prohibit them. There's a timeline. Once you're outside the 6 year window, it won't prohibit you. We should consider amending out Sections 3-4-5-7, all dealing with petitioning the boards.

Chairman K. Koppelman: what you're left with may be more problematic.

Rep. Becker: It may be that trying to take out the areas of my concern is too difficult without rewriting the entire bill.

Rep. Paur: We have an Amendment 1001 that might have to do with the page 4 with the Commerce Dept. wanting it changed.

Chairman K. Koppelman: this amendment says a state agency board, commission, department or other licensing entity that make a decision under this section and reverses the decision at a later date may not be held liable. It may be worth attaching that to the bill in case it should pass.

Rep. Paur: I move we adopt and further amend .01001.

Rep. Vetter: second.

Chairman K. Koppelman: Rep. Paul had moved we adopt and further amend .1001, and we have a second. All those in favor say aye, opposed. Motion carries.

Rep. McWilliams: I'd like to move for a Do Pass.

Chairman K. Koppelman: is there a second. Hearing none, Rep. Roers Jones?

Rep. Roers Jones: I would move a Do Not Pass as twice amended.

Rep. Hanson: Second.

Chairman K. Koppelman: We have a Do Not Pass as twice amended and a second. Discussion? Roll call vote 13 yes 1 no 0 absent. Motion carried. Rep. Roers Jones is carrier.

Prepared by the Legislative Council staff for
Representative Vetter
January 28, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 2, line 4, after "individual" insert "who is applying for a license that requires an education or training period of not more than four years"

Page 2, line 5, replace "at any time" with "before the individual submits an application or enters a training program for a particular license"

Page 4, line 27, after "private" insert "or national"

Page 4, line 28, after "private" insert "or national"

Renumber accordingly

19.0588.01001
Title.

Prepared by the Legislative Council staff for
the House Judiciary Committee
January 22, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 4, after line 28, insert:

"15. A state agency, board, commission, department, or other licensing entity that makes a decision under this section and reverses the decision at a later date, may not be held liable for the failure of an individual to obtain licensure."

Renumber accordingly

DA 2/12/19

19.0588.01003
Title.02000

Adopted by the Judiciary Committee

February 12, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 2, line 4, after "individual" insert "who is applying for a license that requires an education or training period of not more than four years"

Page 2, line 5, replace "at any time" with "before the individual submits an application or enters a training program for a particular license"

Page 4, line 27, after "private" insert "or national"

Page 4, line 28, after "private" insert "or national"

Page 4, after line 28, insert:

"15. A state agency, board, commission, department, or other licensing entity that makes a decision under this section and reverses the decision at a later date, may not be held liable for the failure of an individual to obtain licensure."

Renumber accordingly

Date: 2-12-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1253

House **Judiciary** Committee

☐ Subcommittee

Amendment LC# or Description: 19.0588.01002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Vetter Seconded By Rep. Satrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Carried

Date: 2-12-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1253

House **Judiciary** Committee

☐ Subcommittee

Amendment LC# or Description: 19.0588.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Paur Seconded By Rep Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote. Motion Carried

Date: 2-12-19
Roll Call Vote #: 3

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES HB
BILL/RESOLUTION NO. 1253

House **Judiciary** Committee

☐ Subcommittee

Amendment LC# or Description: 19.0588.01003

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
2 ☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Roers Jones Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Rep. Buffalo	✓	
Vice Chairman Karls	✓		Rep. Karla Rose Hanson	✓	
Rep. Becker	✓				
Rep. Terry Jones	✓				
Rep. Magrum	✓				
Rep. McWilliams		✓			
Rep. B. Paulson	✓				
Rep. Paur	✓				
Rep. Roers Jones	✓				
Rep. Satrom	✓				
Rep. Simons	✓				
Rep. Vetter	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Roers Jones

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

REPORT OF STANDING COMMITTEE

HB 1253: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1253 was placed on the Sixth order on the calendar.

Page 2, line 4, after "individual" insert "who is applying for a license that requires an education or training period of not more than four years"

Page 2, line 5, replace "at any time" with "before the individual submits an application or enters a training program for a particular license"

Page 4, line 27, after "private" insert "or national"

Page 4, line 28, after "private" insert "or national"

Page 4, after line 28, insert:

"15. A state agency, board, commission, department, or other licensing entity that makes a decision under this section and reverses the decision at a later date, may not be held liable for the failure of an individual to obtain licensure."

Renumber accordingly

2019 TESTIMONY

HB 1253

#1
HB1253
1-15-19
Pg 1

Thank you Chairman Koppelman,

My name is Representative Tom Kading for District 45 in Fargo.

House Bill 1253 is a bill that primarily creates the opportunity for someone with a criminal background to petition the organization prior to training as to if they would be denied at license, permit, certificate, or registration. Additionally the bill provides that the department of commerce report the number of denials based on criminal history.

Problem:

This bill aims to solve a couple issue. First and foremost it strives to better allow individuals with a criminal history the ability to obtain the right to work. Secondly, it allows someone with a criminal background to not go through the entire cost and time of getting trained for a trade, only to be denied. And thirdly, we have a work force shortage and this bill only helps create a greater supply of qualified workers.

The Bill:

The petition section of the bill is really the heart of the bill. Sections 3-14 primarily deal with this subject matter. Section 3 creates the statutory language allowing a petition from an individual with a criminal record to determine if they would be denied a license or such. Section 4 and 5 state what may and may not be considered.

Section 6 states 3 basic exemptions:

1. The state's interest in protecting public safety is superior
2. The particular felony or misdemeanor is directly, substantially and adversely related to the state's interest
3. The individual is more likely to reoffend and cause harm

Section 10 states such decision resulting from a petition can be rescinded if new offenses come up. Section 11 dictates a fee of no more than $100. Section 13 creates a reporting requirement for such petitions. And Section 14 states the bill does not apply to private organizations.

Adding a "licensing entity" to Section 1 is really just clean up language to ensure that certain licensing entities couldn't argue that they don't fall into the section of legislation. This is at the recommendation of legislative council to ensure no ambiguity.

The reporting requirement in section 13 creates an annual reporting requirement for the department of commerce. I would be open to an amendment stating the 66 licensing authorities in North Dakota should rather report such data to the Department of Commerce and the Department can dictate where to publish. I believe Michelle Kommer will be expanding on that idea.

Ultimately, these things help increase transparency and accountability for occupational licensing authorities.

Thank you for your time and I request a DO PASS.

#2 HB1253
1-15-19
Pg 1

NORTH Dakota | Commerce
Be Legendary.™

Good morning Chairman Koppelman and members of the Judiciary Committee. My name is Michelle Kommer, and I serve as the Commerce Commissioner. I stand in support of HB1253.

North Dakota's unemployment rate continues to be one of the lowest in the nation with our labor participation rate one of the highest. While this is positive in many ways, chronically low unemployment is also a barrier to growth. There are more than 13,000 jobs openings reported through Job Service North Dakota, and discussions with employers across the state suggest this number to be much higher and is growing. Today, one of our state's most significant challenges is a shortage of qualified workers.

To address this challenge, in the fall of 2017, the Workforce Development Council was re-energized with new membership and a new goal – to develop a roadmap to address the workforce shortage based on a deep understanding of North Dakota's unique issues and challenges. This Council, comprised of 32 members – 21 private business and industry leaders, legislators, city elected officials, representatives of those with barriers to employment and state leaders – conducted the first-ever employer survey with regard to workforce needs, commissioned labor availability and economic impact studies, and interviewed dozens of stakeholders to arrive at a comprehensive report of recommendations which was submitted to the Governor's office in October. The report identified five themes: 1) technical skills gap; 2) need for earlier and more diverse career exposure; 3) nursing and healthcare technician shortage; 4) need for net in-migration; and 5) barriers to employment.

Relating to the fifth theme, occupational licensing is a form of government regulation that requires a worker to hold a credential to

practice or operate in a certain profession. Occupational licensing can create unique barriers and challenges to entering the labor market or moving across state lines and there is a national movement, in the face of a national labor shortage, to re-examine these state-specific requirements. In North Dakota today there are more than 80 licensed occupations, governed by more than 60 boards, commissions and agencies. In its report, the Council recommended considering strategies for simplifying the occupational licensing process in North Dakota, without compromising the public health, safety, or welfare of North Dakotans. HB1253 addresses this by implementing a framework requiring transparency and accountability with respect to the consideration of a person's criminal record in the licensing process. Key provisions include the establishment of a process by which a person with a criminal conviction can determine, in advance of engaging in education or training, whether s/he would be prohibited from being licensed in the profession, as well a uniform process by which all licensing bodies would manage the consideration of a prior conviction, relative to the licensed occupation.

I do have a recommendation relative to the requirement for the Commerce Department to create an annual report (Page 4, line 18). In its present form, the bill requires the Department to collect information. For efficiency and to ensure adherence to the reporting requirement, I would request that the licensing bodies be "required to submit".

Thank you for your time and I am happy to answer any questions you may have.

#3
HB 1253
1-15-19

North Dakota Board *of* Massage Therapy

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H.B. 1253

JUDICIARY COMMITTEE

TESTIMONY OF NORTH DAKOTA BOARD OF MASSAGE THERAPY

Mr. Chairman, members of the committee, I am Rebecca Forde and I am appearing on behalf of the North Dakota Board of Massage Therapy. I am here today to explain why the Board is opposing bill 1253.

Criminal history background checks, performed by BCI, are required of applicants for a massage therapy license. The background checks access the FBI database and are very thorough. The bill, as presented, sidesteps the current objective background check and relies on the word of the applicant. The concern is a petitioner not disclosing his or her entire background and getting an opinion from the Board based on their limited disclosure. Then, when they apply for licensure, the background check showing a different story. This could open the Board up to possible litigation if it makes a decision in regard to licensure that is different than the opinion issued under house bill 1253.

The next concern is the Board not being able to take into consideration "nonconviction information," specifically, arrests with pending convictions. An example currently before the Board is an individual arrested and charged with sexually assaulting a client during a massage. House bill 1253 would not allow the board to take the pending case into consideration since at this time there is only an arrest and not a conviction. The Board should have a clear picture of the petitioner's credentials and circumstances before making a decision. An example of nonconviction information that could be problematic is whether the individual is out on bail with court imposed sanctions, such as a restraining order, during the time of pending conviction. The Board should have some leeway to look at the evidence in the case or at least have some time as the case unfolds to make a determination.

The Board would also not be able to take into consideration "nonviolent misdemeanors." "Nonviolent" misdemeanors is not defined in the bill and raises concerns in the area of repeated misdemeanor offenses, such as drug offenses and crimes of theft, that may show questionable behavior.

Finally, the Board would be allowed 90 days to gather information, meet and reach a decision regarding licensure. We feel that is not enough time to gather enough information, meet and make an educated decision based on the principals bill 1253 would set for us.

Thank you for allowing me the time today to bring our concerns before you and share why we are opposing bill 1253. If you have any questions I'd be happy to answer them.

#4
HB 1253
1-15-19
Pg 1

HOUSE BILL NO. 1253
Testimony
Corey Kost, Vice Chair
North Dakota Real Estate Appraiser Qualifications and Ethics Board

January 15, 2019

Good Morning Mister Chairman and Members of the House Judiciary Committee:

My name is Corey Kost and I am vice-chair of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I am also a commercial appraiser practicing in Bismarck and throughout the state. I am appearing on behalf of the Board to oppose Bill 1253.

As a background, our state board is advised and overseen by the Appraisal Subcommittee (ASC). The ASC is the federal board which oversees state appraiser and appraisal management company (AMC) programs for compliance with Title XI of FIRREA. Compliance with the ASC's statutory recommendations is required to certify and license appraisers qualified to perform appraisals in connection with federally related transactions.

The Appraiser Board has several concerns with Bill 1253. Of the utmost importance to our board is our compliance with the ASC requirements. One of those requirements is that appraisers and owners of appraisal management companies are of good character, as is embodied in our licensure requirements. This is set by the ASC and is required to maintain compliance so that North Dakota appraisers can continue to perform appraisals and appraisal management companies can continue to facilitate appraisals in connection with federally related transactions. The ASC requires the state implements minimum criteria as adopted by the Appraiser Qualifications Board (AQB). This criteria requires that *"All applicants for a real property appraiser credential shall possess a background that would not call into question public trust."* Also, ASC Policy Statements require that *"An AMC shall not be registered by a State if any person that owns more than 10 percent of the AMC— (1) Is determined by the State not to have good moral character; or (2) Fails to submit to a background investigation carried out by the State."* Subsection 8 of the proposed Section 1 prohibits the Appraiser Board from meeting this requirement.

The bill also proposes that the Board not consider information which is vital to protecting the public's trust in appraisers. Specifically, the bill asks that the Board 1) not consider non-violent misdemeanors that may include fraud or theft and that 2) not consider crimes more than three years old. The AQB Criteria states that *"An applicant shall not be eligible for a real property appraiser credential if, during at least the five (5) year period immediately preceding the date of the application for licensing or certification, the applicant has been convicted of, or pled guilty or nolo contendere to a crime that would call into question the applicant's fitness for licensure."* Disallowing the board to consider a conviction that occurred more than three years before the date of petition as proposed in Subsection 5 of the proposed Section 1 but less than five years preceding the date of application as required by the AQB Criteria prohibits our Board from meeting this requirement and would put our program into noncompliance. Further, when the public is asked to allow appraisers into their homes, consideration of these non-violent misdemeanors and older convictions are important to protecting public safety and welfare. They are also important to maintaining the integrity of the profession. If a person has been convicted of multiple offenses calling into question their trustworthiness in being allowed into someone's home, those offenses should be at least considered, regardless of when the violations occurred.

If this bill were to pass, by complying with state law, we would be out of compliance with federal requirements. If our program falls out of compliance with ASC requirements, the residents of North Dakota will suffer because appraisers will not be able to assist with federally related transactions, North Dakota appraisers will suffer because they will no longer be able to complete this work, and North Dakota creditors will suffer because they will no longer have the option of utilizing the services of AMCs. No one benefits if our program loses compliance, and this bill, as written, will place our program out of compliance.

The Real Estate Appraiser Qualifications and Ethics Board opposes Bill 1253 as currently written because it is not in the best interests of public welfare. I will stand for any questions.

#5
HB1253
1-15-19
RJ

19.0588.01000

Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1253

Introduced by

Representatives Kading, Blum, McWilliams, Schneider

Senator Kannianen

A BILL for an Act to amend and reenact section 12.1-33-02.1 of the North Dakota Century Code, relating to a criminal conviction and state licensure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-33-02.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-33-02.1. Prior conviction of a crime not bar to state licensures - Exceptions - Petition.

1. ~~A person~~An individual may not be automatically disqualified to practice, pursue, or engage in any occupation, trade, or profession for which a license, permit, certificate, or registration is required from any state agency, board, commission, ~~or~~ department, or other licensing entity solely because of prior conviction of an offense. However, ~~a~~ personan individual may be denied a license, permit, certificate, or registration because of prior conviction of an offense if it is determined ~~that such person~~the individual has not been sufficiently rehabilitated, or ~~that~~ the offense has a direct bearing upon ~~a person's~~an individual's ability to serve the public in the specific occupation, trade, or profession. The supreme court and state board of law examiners are exempt from this statute.
2. A state agency, board, commission, ~~or~~ department, or licensing entity shall consider the following in determining sufficient rehabilitation:
   a. The nature of the offense and whether ~~it~~the offense has a direct bearing upon the qualifications, functions, or duties of the specific occupation, trade, or profession.
   b. Information pertaining to the degree of rehabilitation of the convicted personindividual.
   c. The time elapsed since the conviction or release. Completion of a period offive years after final discharge or release from any term of probation, parole or other

form of community corrections, or imprisonment, without subsequent conviction ~~shall be deemed~~is prima facie evidence of sufficient rehabilitation.

3. ~~If conviction of an offense is used in whole or in part as a basis for disqualification of a~~ person, such disqualification shallAn individual may petition a state agency, board, commission, department, or other licensing entity at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining state licensure.

4. A petition must include the individual's criminal record or authorize the state agency, board, commission, department, or other licensing entity to obtain the individual's criminal record. The petition may include, and the state agency, board, commission, department, or other licensing entity may consider:
   a. Completion of the criminal sentence.
   b. A certificate of rehabilitation or good conduct.
   c. Completion or active participation in drug or alcohol treatment.
   d. Testimonials and recommendations, including a progress report from the individual's probation or parole officer.
   e. Evidence of sufficient rehabilitation under subsection 2.
   f. Training.
   g. Employment history.
   h. Employment aspirations.
   i. Personal information, including the age of the individual at the time the offense was committed and the individual's current family responsibilities.

5. A state agency, board, commission, department, or other licensing entity may not consider:
   a. Nonconviction information, including information related to a deferred adjudication, participation in a diversion program, or an arrest not followed by a conviction;
   b. A conviction that has been sealed, dismissed, expunged, or pardoned;
   c. A juvenile adjudication;
   d. A nonviolent misdemeanor; or

e. A conviction that occurred more than three years before the date of the petition, except a conviction of a felony offense that is a:

(1) Violent offense, including a felony offense subject to section 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1, which involves the use of a firearm or dangerous weapon, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22; or

(2) A sex-related offense, including a felony sexual offense under chapter 12.1-20.

6. The state agency, board, commission, department, or other licensing entity may not find an individual's criminal record disqualifies the individual from state licensure unless the state agency, board, commission, department, or other licensing entity determines the state's interest in protecting public safety is superior to the individual's fundamental right to pursue a lawful occupation and the agency, board, commission, department, or other licensing entity establishes by clear and convincing evidence:

a. The individual was convicted of a felony or violent misdemeanor, except as otherwise provided in this section, which is directly, substantially, and adversely related to the state's interest in protecting public safety; and

b. The granting of state licensure will put the individual in a position in which the individual is more likely than not to reoffend and cause harm.

7. The state agency, board, commission, department, or other licensing entity shall issue a decision within ninety days after a petition is submitted. The decision must be in writing and ~~shall~~must specifically state the ~~evidence presented and the reasons for~~ disqualification findings of fact and conclusions of law and may advise the individual of actions the individual may take to remedy the disqualification. An individual who is disqualified may submit a revised petition reflecting completion of the remedial actions before a deadline to be set by the state agency, board, commission, department, or other licensing entity in an alternative advisory decision. A copy of ~~such disqualification~~ shallthe decision must be sent to the applicant by certified mail.

~~4.~~8. An ambiguity in an occupational regulation relating to the use of an individual's criminal record must be resolved in favor of the individual. A state agency, board, commission, department, or other licensing entity may not use an undefined term in an occupational regulation relating to the individual's moral character, including a crime of moral turpitude or character and fitness to disqualify an individual from state licensure.

9. An individual may submit a new petition to a state agency, board, commission, department, or other licensing entity at least one year after a final judgment on the initial petition.

10. A state agency, board, commission, department, or other licensing entity may rescind a favorable decision at any time if the individual is convicted of an additional offense.

11. A state agency, board, commission, department, or other licensing entity may charge a filing fee of no more than one hundred dollars for the processing of each petition.

12. A person desiring to appeal from a final decision by any state agency, board, commission, or department shall follow the procedure provided by the chapter of this code regulating the specific occupation, trade, or profession. If no appeal or review procedure is provided by such chapter, an appeal may be taken in accordance with chapter 28-32, except for attorneys disbarred or suspended under chapter 27-14.

13. The department of commerce shall create an annual reporting requirement to be compiled and published on the department's website. The information must include:

a. The number of applicants petitioning each state agency, board, commission, or other licensing entity;

b. The number of approvals and denials by each state agency, board, commission, or other licensing entity;

c. The type of offenses for which each state agency, board, commission, or other licensing entity approved or denied the petitions; and

d. Any other data the department of commerce deems necessary.

14. This section may not be construed to require a private certification organization to grant or deny a private certification to an individual.

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H.B. 1253

JUDICIARY COMMITTEE

TESTIMONY OF NORTH DAKOTA BOARD OF CHIROPRACTIC EXAMINERS

Mr. Chairman, members of the committee, I am Lisa Blanchard, executive director of the North Dakota State Board of Chiropractic Examiners. I am here today to explain why the Board is opposing bill 1253.

As a background, the Board typically tries to work with applicants to ensure licensure that is beneficial to the public. As a reference, in the 8 years I have been executive director of the Board, the Board has never denied a license to an applicant.

Currently, our Board requires an FBI criminal history background check from BCI prior to licensure. One of the main concerns that the Board has is the ambiguity of this statute—specifically, how does the individual disclose their criminal record as a part of this petition? If, as presented, the applicant just provides certain information they deem relevant and not a full background check, this could create an issue if, at the time of licensure the background check provides different information from what was provided by the applicant. This would open up the Board to unnecessary litigation if the Board issued an opinion that this wouldn't disqualify the applicant, but then denied the license application because all the information was not given to the board. This would be a waste of state resources and would be a detriment to licensees and the public.

The next concern is not being able to take into consideration "non-conviction information," specifically, is the board able to consider all of

the non-conviction information provided for in subsection 4, which is related to the applicant's criminal record? The statute is not clear as to what the Board can or cannot consider that non-conviction information because it is not clearly defined.

The Board would also not be able to take into consideration "nonviolent misdemeanors." "Nonviolent" misdemeanors is not defined in the bill and raises concerns in the area of theft or fraud given that these individuals are going to be intimately involved in clients' medical records as well as submitting insurance claims on their behalves. Given the sensitivity of the information, we should be able to take those items into consideration. This also raises concerns with not being able to consider matters more than 3 years old.

Finally, the Board would be allowed 90 days to gather information, meet and reach a decision regarding licensure. We feel that is not enough time to adequately gather and consider the information and make the difficult and complex decisions and findings required in the statute in a thorough and thoughtful manner.

Overall, the Board of Chiropractic Examiners just feels that this bill creates too many ambiguities and opens the Board up to unnecessary litigation, without a concrete benefit to the applicants. We oppose this bill.

That concludes my testimony, and I would stand for any questions.

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House Judiciary Committee

HB 1253

January 15, 2019

Testimony of JoDee S. Wiedmeier, Executive Director
North Dakota Board of Podiatric Medicine

Chairman Koppelman and members of the House Judiciary Committee, my name is JoDee Wiedmeier, Executive Director of the North Dakota Board of Podiatric Medicine. By statute, the Board is responsible for the licensing and regulation of the practice of podiatry in North Dakota. On behalf of the board, which is composed of four podiatrists, one physician, and one public member from throughout the state, I speak in opposition to HB 1253.

As stated, the North Dakota Board of Podiatric Medicine is tasked with protecting the public by licensing qualified individuals to practice podiatry in this state. We have certain statues and rules with which we must comply. For example, NDCC 43-05-14, states that in order for an individual to be licensed to practice podiatry in North Dakota they must not have engaged in conduct warranting disciplinary action in this state or in another state unless the board determines that the public will be protected through the issuance of a license or permit with conditions or limitations considered appropriate by the board. NDCC 43-05-16 indicates that one of the grounds for discipline is a conviction in the previous five years of a misdemeanor or felony reasonably related to the practice of podiatry or that may have a direct bearing upon a "person's ability to serve the public as a podiatrist".

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The board has an application process that allows an individual to apply for licensure. In that application, we ask about any previous discipline and whether the individual has had any criminal convictions. We also obtain information about the individual's education and residency, national exam scores, current and past licenses, discipline in any other jurisdictions, as well references from other individuals inside and outside of the medical community, and the board does its due diligence with individual state back ground checks when available. Each applicant is also required to appear before the board for a personal appearance where both the board and the applicant can ask questions of each other and the applicant may provide whatever additional information the applicant so chooses. The board takes into consideration all of the applicant's information and renders its decision to issue or not to issue a license based the totality of the application and supporting materials and information.

The statute, 12.1-33-02.1 that is being amended here already states that an individual may not be disqualified to practice in a profession solely because of a prior conviction. The amendment further goes on to place another, seemingly unnecessary, step into the process by allowing an individual to petition the board at any time to render a decision as to whether or not an individual will be automatically disqualified solely on the basis of a conviction. And, then if the determination made (after a special board meeting is convened and written findings of fact, conclusions of law and an order are issued) is that the individual will **not** automatically be disqualified from licensure, the individual would then have to submit to the full application process. Further, a determination under the petition that the individual will not automatically be disqualified based upon a

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prior conviction, does not mean that the individual will be granted a full and unencumbered license under the following application process.

This petitioning process may also be viewed as a way to circumvent the application process. If the individual petitions the board and it is determined that the conviction **would** automatically disqualify the individual from licensure, then it is assumed that the individual will not submit an application. Does the board (and the individual) then consider this a denial of licensure? The individual did not submit an application for licensure. So, then if an inquiry was received by the board regarding whether or not an individual was denied licensure in North Dakota, or even whether or not the individual made application for licensure in North Dakota, the board would have to answer "no".

Page 2, lines 8-21, include a list of information that the board may consider when making a determination. All of this information may be presented by the individual in the full application process. On Page 2, lines 23 – 30 and continued on Page 3, lines 1-10 set forth the information that cannot be considered in the petition. On Page 3, subsection "e" indicates that the board cannot consider a conviction that occurred more than three years prior to the date of the petition; however, NDCC 43-05-16 indicates that the board may consider a conviction the occurred in the previous five years.

The board holds an annual meeting once per year. In order to fully consider these petitions and issue findings, conclusions of law and an order within ninety (90) days, the board would have to hold a special meeting for each petition received unless, of course, the annual meeting falls within that time period. The costs associated with reviewing these petitions, obtaining advice from legal

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counsel, and convening special meetings would far outweigh the $100 fee that the board is able to collect.

This petitioning process seems to be an extra step that is unnecessary and will be an additional cost to the board and hence, the taxpayer. Our board, and probably most other licensing boards, have an application process that is quite thorough and takes into consideration the totality of the individual's application not rendering a decision based upon one single line item.

In conclusion, the proposed petitioning process to determine a single item before commencing the full application process where all items are considered, including the item in the proposed petition, seems redundant and unnecessary. The board does make careful consideration of all applications by considering the individual's rights as well as the public's expectations of protection against those that are not qualified or may do harm.

Thank you.

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House Judiciary Committee

Testimony on HB 1253

By Kurt Snyder: Chair of the North Dakota Board of Addiction Counseling Examiners

January 14, 2019

Good Afternoon, my name is Kurt Snyder. I am the Chair of the North Dakota Board of Addiction Counseling Examiners. I want to thank Chairman Koppelman and fellow members of the House Judiciary Committee for allowing me to testify on House Bill 1253.

The addiction profession has a role that includes treating and advocating for those with substance use disorders. Many of these individuals have criminal backgrounds. With proper treatment and support, many find long-term recovery and become valued citizens in our community. However, there are many barriers to their reintegration that can include housing, employment, and seeking a career within a licensed profession. Many of our addiction professionals have pasts that involve the use of controlled substances and related convictions. And so our Board regularly reviews applications of individuals with those convictions. Having been active in the profession for 20 years and now having been on the Board for 3 years, I can assure you that this Board does not have a practice of automatically disqualifying applicants based solely on criminal convictions. Of course, circumstances could exist where a conviction—standing alone—might be so severe and recent that it would be a reason for not granting an application. However, that would be a rare exception—and one I have never seen come before our Board. Instead, the Board reviews the entire application, including academics and education; experience; examinations; letters of support; the substance, timing, and

severity of criminal conduct; rehabilitation efforts; and any other related information. And rather than denying a potentially borderline application, we would likely instead pursue the option of granting the license and putting appropriate safeguards in place, like getting quarterly reports from the individual's supervisor for a period of time in order to ensure the new licensee is no risk to the public.

Our Board also frequently receives emails and inquiries from individuals who have criminal convictions and are considering embarking on a career in addiction counseling—and they inquire whether they could be licensed even with the conviction. The Board's answer reflects the practice that I just described to you—which is that in order for the Board to give any kind of answer with any substantial degree of certainty, the Board needs to review the entire application submitted in the future.

This Bill would now require the Board to spend substantial amounts of time on those many inquiries—to issue detailed findings of fact and conclusions of law, to handle re-petitions, and to hear new petitions from the same applicant every year. And to carry out this effort on a matter that the Board is not handling in a way that disadvantages these applicants. And to give them answers that are potentially misleading because of all the intervening events that could occur between a petition and an eventual application—which could come years later.

I believe most of you know this, but our Board thinks it would be important in reviewing this Bill, that legislators also not lose sight of the fact that we—like most professional licensing boards in our state—are volunteers. We are paid nothing for the substantial time and commitment we already willingly give to our state and our profession—we have real, fulltime jobs assisting addicted individuals—and we already

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spend countless hours working hard to implement the laws you thoughtfully pass. And we do it all to protect the citizens of our state and to maintain a solid workforce and a sound, qualified group of professionals. And yet this Bill, puts the same responsibilities on our volunteer boards as it places on the more standard state agencies that have full time, paid and benefitted employees who, as a part of their salaried positions, will be compensated for their work on these petitions.

Therefore, I testify in opposition of HB 1253. I would be open to any questions you may have.

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House Judiciary Committee

Testimony on HB 1253

By Bonnie Storbakken: Executive Secretary for the North Dakota Board of Medicine

Good morning Mr. Chairman and members of the House Judiciary Committee. My name is Bonnie Storbakken. I am the Executive Secretary for the North Dakota Board of Medicine. The Board of Medicine is the licensing and regulatory body for Physicians, Physician Assistants, Genetic Counselors and Fluoroscopy Technicians.

Background checks:

Our Board does a background check on every applicant with the exception of Fluoroscopy Technicians If there are any issues with an applicant's history which includes work history, malpractice, discipline from other Boards, bad reports from employers and criminal history then an applicant will not be granted a waiver of the interview for licensure and they will be required to interview with the Board. In that case, if a license is denied it is done so on the basis of the materials reviewed in addition to the interview. Our Board does not summarily deny licensure to applicants based solely on a criminal conviction.

However, this Bill as written would require us to issue a formal opinion as to whether a criminal conviction would automatically bar licensure. This opinion would be done in the absence of a full application and credentials.

Our Board is a Board with 13 members who meets three times a year barring any other emergency meeting that may need to be called. Our Board has nine MD's, one DO, one PA and two public members. Like many other Boards the members all have busy careers separate from their Board work. Having to receive, review and issue a decision including findings of fact and conclusions of law will increase the work load of our staff of four as well as increase the legal costs to the Board for the work. It would be a strain on this Board if there were a number of these a year as each of them would require Board action to issue an opinion. The ninety-day timeline would require a full meeting of the Board for review and advisement for legal counsel.

Page 2 line three states that an individual may petition a Board for a determination of whether the individual's criminal record will disqualify the individual from obtaining state licensure. However, it is unclear in this section how the record is to be provided to the Board for review. Will that be a part of the petition? And how will it be shown to be a full record including any out of state records? Is the Board only allowed to decide the petition on the information provided by the petitioner or can they obtain additional information regarding the criminal conviction, etc.?

Page 2 line eight discusses what may be included in the petition and gives the petitioner the option of including their criminal record or authorizing the Board to obtain the record. This section is not clear as what type of criminal record will be provided or authorized. Is it a state

record or an FBI background check? Who will be responsible for the fees associated with obtaining the records? Does the record include more than the conviction documents like police reports, transcripts from hearing, etc.?

Page two line 23 lays out what may be considered from a person's record however, it is unclear if this language is meant to speak only to the petition availability for an applicant or if it speaks to what may be considered for licensure. If it is meant to speak only to what may be considered when reviewing a petition, then it may be better to create a separate section in this chapter for the petition language. It needs to be clear that these sections only deal with the petition and not the licensure process for the Boards.

If the additional language on page two line twenty-three speaks to what may be considered for licensure then our Board would ask this committee to reconsider this language. We typically ask the questions that you see in attachment one and two on our application and renewal applications. We seek information regarding arrests and substance abuse. The ban on considering arrest information and non-criminal misdemeanors would remove the ability of our Board to look at an arrest and conviction of a DUI. This is one tool we use to try to reach a physician who may be impaired and require services. When we see a recent DUI Conviction, we are able to send those applicants to the North Dakota Physician Health Program for evaluation and support if needed. This language would prevent us from seeking this information and possibly from helping some impaired physicians get the help they need.

Page 3 line 11 states that a when denying a license the Board must establish by clear and convincing evidence the individual was convicted of a felony or violent misdemeanor which is directly substantially and adversely related to the state's interest in protecting public safety and that the granting of a license will put the individual in a position in which the individual is more likely than not to reoffend and cause harm. Our Board is not equipped to make a clear and convincing finding on criminal recidivism. Our Board today must provide notice of a denial of licensure which may be taken to hearing in front of an Administrative Law Judge. In that hearing our standard of proof is probable cause, not clear and convincing. Our current rule structure provides protections to applicants.

Page 3 line 22 discusses the requirement of the Board to issue an opinion within ninety days that shall include findings of fact and conclusions of law and possible remedial action to be taken by the applicant. As mentioned earlier in the testimony, this timeline is a burden on a Board that meets three times a year and is very likely to increase our legal fees. It appears in this section that the Board may advise remedial action and set a deadline for that remedial action and review a revised petition. There is no discussion of what is done if the petition is incomplete. What does this do to the 90-day time frame for issuing an opinion. Also, there is no discussion of any appeal process for an unfavorable decision. These are areas that need some clarity.

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Page 4 line 1 states essentially an ambiguity in an occupational regulation relating to the use of an individual's criminal record must be resolved in the favor of the individual. However, it is unclear what is meant by, "occupational regulation relating to the use of an individual's criminal record". Line three states, "a state agency, board, commission, department or other licensing entity may not use an undefined term in an occupational regulation relating to the individuals moral character,.." what exactly does undefined term mean?

Page four line 11 states the agency may charge $100 for filing a petition. Is this in addition to any costs for obtaining criminal records? This charge would not cover the extra expense of having an additional meeting as well as issuing an opinion.

Page 4 line 18 sets out a report compiling the requirement for the Department of Commerce. Within this section it seems that our Board would be required to maintain all data of petitions that are filed with the Board on an annual basis.

For all of these reasons the Board of Medicine has concerns regarding this Bill. We would also like to point out that SB 2173 is the Interstate Medical Licensing Compact which has been introduced this session and is supported by our Board. Should SB 2173 pass, our Board would need to follow the compact regarding requirements for licensure. The requirements of the Compact state an applicant must not have a conviction, adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction. If we were the home state within the Compact application, we would be in violation of the Compact with a petition process as described in this bill by failing to seek the necessary history from an applicant.

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NORTH DAKOTA
Board of Medicine

Application for License to Practice Medicine

Personal Information

If any of the questions below are answered "yes", you will be required to provide full details.

A. Have you ever failed a licensing examination or any component of a *licensing* examination for a medical license or for any other professional license? (You must answer "yes" even if you later passed the test or component. This question applies only to *licensing* examination - USMLE, COMLEX, NBOME, LMCC, FLEX - not board certification examinations.) ○ Yes ◉ No

B. Have you ever had an application for a professional license denied? ○ Yes ◉ No

C. Have you ever been investigated and or disciplined by any licensing board, agency, professional association or medical facility? ○ Yes ◉ No

D. Have you ever been dismissed from, resigned while under investigation, failed to complete an academic year, taken a leave of absence or been placed on probation or reprimanded at a medical school or postgraduate training program? ○ Yes ◉ No

E. Have you ever been subject to informal or formal proceedings by any licensing board, agency or professional association to revoke, suspend, restrict, deny or limit a professional license? ○ Yes ◉ No

F. Have you ever been subject to informal or formal proceedings which might have resulted in the surrender of a state and/or federal narcotic registration certificate? ○ Yes ◉ No

G. Have you ever had hospital and/or clinic privileges denied, removed or restricted, or limitations imposed on such privileges or resigned hospital and/or clinic privileges to avoid formal action? ○ Yes ◉ No

H. Are you now or have you ever been named as a defendant or respondent in any malpractice proceeding? ○ Yes ◉ No

I. Have you ever been convicted of any crime, felony or misdemeanor? (You must answer "yes", even if the imposition of sentence was deferred and the crime was later dismissed.) ○ Yes ◉ No

J. Have you ever been arrested for, or charged with, any crime? ○ Yes ◉ No

K. Within the last two years have you been treated for any physical, mental or emotional condition which impaired or could be said to impair your ability to practice safely and competently? You may answer no to this question if you have a current contract with the North Dakota Professional Health Program (NDPHP) or a professional health program in another state. ○ Yes ◉ No

L. Do you currently have or within the past two years have you had a dependency on the use of or engaged in the excessive or habitual use of alcohol or drugs which impaired or does impair your ability to practice medicine safely and competently? You may answer no to this question if you have a current contract with the North Dakota Professional Health Program (NDPHP) or a professional health program in another state. ○ Yes ◉ No

Prescription Drug Monitoring Program (PDMP) Certification

☑

I certify that I understand and will comply with this rule, even if it doesn't currently pertain to my practice.

How do I know if this rule applies to me? Chapter 50-05-02 PDMP Rule

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NORTH DAKOTA
Board of Medicine

License Renewal - Physicians

Personal Information

This information is the confidential property of the North Dakota Board of Medicine Investigative Panels.

If any of the questions below are answered "yes", you will be required to provide full details.

Since you LAST applied for renewal of your North Dakota license:

A.	Have you had an application for a professional license denied?	○ Yes*	◉ No*
B.	Have you been investigated by any licensing board, agency or professional association (other than the North Dakota Board of Medicine) in connection with medical competency, practice act violations, unprofessional conduct or unethical conduct?	○ Yes*	◉ No*
C.	Has any disciplinary action been instituted which could have affected or could now affect your license to practice in any state or foreign country?	○ Yes*	◉ No*
D.	Have you been subject to informal or formal proceedings by any licensing board, agency or professional association (other than the North Dakota Board of Medicine) to revoke, suspend, restrict or limit a professional license?	○ Yes*	◉ No*
E.	Have you been subject to informal or formal proceedings which might have resulted in the surrender of a state and/or federal narcotic registration certificate?	○ Yes*	◉ No*
F.	Have you had hospital privileges denied, removed or restricted, or limitations imposed on such privileges, or resigned hospital privileges to avoid such action?	○ Yes*	◉ No*
G.	Has your employment at any medical facility terminated for any reason?	○ Yes*	◉ No*
H.	Have you been convicted of any crime, felony or misdemeanor? (You must answer 'yes', even if the imposition of sentence was deferred and the crime was later dismissed.)	○ Yes*	◉ No*
I.	Have you been arrested for, or charged with, any crime?	○ Yes*	◉ No*
J.	Have you had or have you been admitted to any hospital or other inpatient care facility for any physical, mental or emotional condition which impaired or could be said to impair your ability to practice safely and competently?	○ Yes*	◉ No*
K.	Have you had a dependency on the use of alcohol or drugs which impaired or does impair your ability to practice medicine competently?	○ Yes*	◉ No*
L.	Have you engaged in the excessive or habitual use of alcohol or drugs or received any treatment for alcoholism or excessive or illegal drug use?	○ Yes*	◉ No*

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1-23-19
p1.

19.0588.01001
Title.

Prepared by the Legislative Council staff for
the House Judiciary Committee
January 22, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 4, after line 28, insert:

"15. A state agency, board, commission, department, or other licensing entity that makes a decision under this section and reverses the decision at a later date, may not be held liable for the failure of an individual to obtain licensure."

Renumber accordingly

#1
HB1253
2-12-19
P.1

19.0588.01002
Title.

Prepared by the Legislative Council staff for
Representative Vetter
January 28, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 2, line 4, after "individual" insert "who is applying for a license that requires an education or training period of not more than four years"

Page 2, line 5, replace "at any time" with "before the individual submits an application or enters a training program for a particular license"

Page 4, line 27, after "private" insert "or national"

Page 4, line 28, after "private" insert "or national"

Renumber accordingly