

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

SB 2127

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SB2127
1/25/2019
31485

- Subcommittee
 Conference Committee

Committee Clerk Signature: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to regulation of the practice of occupations & professions by military dependents; relating to regulation of occupations & professions.

Minutes:

Att #1-Sen Burckhard; Att #2- Al Dohrmann; Att #3-Michelle Kommer; Att #4-Rebecca Pitkin; Att #5-James Schmidt; Att #6-#7-Lawrence King; Att #8-Bonnie Staiger; Att #9-Dr.Taya Patzman; Att #10-Bonnie Storbakken Att #11-Maureen Wanner; Att # 12-Barb Andrist; Att # 13-Jeanne Prom; Att 14-Jodee W; Att #15-Carol Olson;Att #16- Gail Hovden; Att #17-Lisa Blanchard; Att #18-Michael Gunsch; Att # 19-Aaron Hummert;Att #20-Mark Hardy;

Chairman Davison: Let's open SB2127. We have a similar topic again today.

Sen Burckhard: We have workforce issues in this state. This has to deal with military spouses and dependents. I brought a graphic. (see att #1) The darker the color you are in compliance with these people. North Dakota is right in the middle on this graphic with these five issues. (2.40) They try and recruit ages between 17 – 24 years old in the military. They would say they recruit the soldier but try and retain the family. If the family is happy, then the soldier may reenlist. They don't come here for our mountains and beaches, you know. But many really like it in North Dakota. We want to give them a reason to stay. Any questions?

Chairman Davison: What is the difference just military depends. between the last bill?

Sen Burkhard: This is dependents. (5.18)

Adjutant General Al Dohrmann, National Guard: I am here in support of this bill. I am also a member of North Dakota military promotion and strategic sustainment. This is made up of the Lt. Governor and community leaders from around the state. (see Att #2) I don't like to see the dark color in MN. We are totally competing with them. This bill helps give families opportunities. (11.18) Any questions?

Chairman Davison: In the last bill, you brought up elementary education. What do you think the military can do better to understand those occupations that rise to the top more often?

General: I don't have data, just stories. Teacher is a big one. Social workers, nurses, pharmacists and lawyers. K-12 is one of the big ones.

Sen. Erin Oban: I am confused at the differences. We are adding a definition of dependents and spouses are already in here.

General: The focus is on spouses and dependents because they follow. The dependents may have a license, but rarely. They may already be adults. I hope my children do not follow me when they are adults. When the spouse chooses not to follow the service member, because they don't think they can get meaningful employment. The high school kids that can work all the jobs we have will not come here to work those jobs but stay with the spouse in the other state.

Sen. Erin Oban: I don't disagree with you. The words we are talking about seem to be in here already. Have you been tracking complaints? Without data it is hard.

General: In 2015, there was a law passed for boards to consider military spouses, and it was permissive language. We have been making boards aware of that.

Michelle Kommer, Commissioner of Commerce, acting Labor Commissioner: I am here in support of this bill. This is the same testimony as I had last week. (see att #3). I urge a DO PASS. Any questions? (23.22)

Chairman Davison: Any more testimony in support. Agency.

Rebecca Pitkin, Director, Education Standards & Practices: (see att #4) I am here in opposition to this bill. Our board does not support section 5. We want our children to be safe.

Chairman Davison: (26.24) Teaching was identified as one of the challenging areas. I work in education. I feel we have made progress in the area. If they get a background check in North Dakota that comes through fine, what other areas are challenging for you?

Rebecca: Maybe cost of application, cost of the license. We have modified renewals.

Sen. Kristin Roers: What is the turnaround time on background check?

Rebecca: 4-6 weeks is average. That is their time line.

Chairman Davison: Any more agency? Any against?

James Schmidt, Pres. ND Electrical Board: (see att #5) I am here in opposition to this bill. We are concerned with section 5 of the bill. (30.52)

Chairman Davison: They can take the placement exam immediately if they pay the cost?

James: Yes, there is an application and \$25 for that and we would review that. Our board would grant those. We vet those applications well and do a background. (31.55) We don't like the 24-month exemption.

Chairman Davison: How many people take the placement exam when they come across from a different the state?

James: A regular apprentice works 4 years, 8,000 hours' education, then apply for journeyman exam. We approve it, and they take it. We need to know what other states require and those coming here need to know our requirements, too. Montana regulates similar rules.

Sen. Erin Oban: Do people that come into North Dakota and take the exam, do they ask about military spouse or dependents?

James: Yes, we do. (34.52) We do have a provision for military in our rules. I think it is 2,000 hours.

Sen. Erin Oban: Are there professions who aren't identifying on their application that they are military. I think it is important that they identify.

Lawrence King, Board of Law Examiners: (see att #6 and #7) Here opposed to the bill as written. Passed around a bill also. We need an exemption, but not the two year on discipline. (38.35) Questions?

Sen. Erin Oban: Are you aware of any one who has applied since you adopted that rule, who is a military spouse that you let in?

Lawrence: The information I got from SB2126 did not address that. I am fairly certain that we have. I think only one.

Chairman Davison: Major Sheldon, would you come forward please. We have identified way that we have tried to help the military with this licensure piece. I believe the groups in here are making an effort over the last few years. How do we get to dark blue in the data?

Major Jay Sheldon, North Dakota National Guard: I talk to different board and the work has been ongoing. That work has not been recognized in the national data, I feel. We need to make it more known that our successes exist. The websites out there don't tract internal policy to these boards. They are looking at legislation not internal in boards, unfortunately.

Chairman Davison: We are interested in the military basses and the role they play in the nation. Is it the threat of losing the basses or problem of licensing and how do we balance this to find a solution?

Major: It is a complex problem with lots of variables. We asked the Air Force basses if they tract the data and they do not. You mostly get stories in the groups we got together. I have reached out to Dr. Pitkin, and they have been proactive. Where to focus, I am not sure. (43.41)

Sen. Erin Oban: There are national groups that do not dig into actual policy but look at what state laws are on the books. They just want to check the box. If we could summarize all of this work that all these professional boards have already done, it is better. It is about who controls what. Legislators shouldn't control everything.

Major: That is one of the difficulties we have. We know there is working being done in a positive effort. With 68 boards and gather everything, we don't have the time or resources. Would be nice to have a mechanism for all that to be consolidated. I would gladly provide that to Defense Liaison Office.

Bonnie Staiger, State Board of Architecture: (see att #8) I am here in opposition to this bill.

Dr. Taya Patzman, State Board of Optometry: (see att #9) We are asking for a DO NOT PASS or to be exempt due to concerns about section 5. Any questions? We do not ask about if they are military on our application.

Bonnie Storbakken, Secretary, Board of Medicine: (see att #10) We are opposed to bill as written. I will ask our board about the military question Sen. Erin Oban brought up. (51.01)

Maureen Wanner, Board of Cosmetology: (see att #11) I am a military spouse of a soldier who retired after 26 years.

Barbara Andrist, North Dakota State Board of Respiratory Care: (see att# 12) Here in opposition. We feel having the Labor Com

Jeanne Prom, Director, N D Real Estate Commission: (see att #13) We are opposed to this bill.

JoDee Wiedmeier, Ex. Dir. N.D. Board of Podiatric Medicine: (see att #14) (53.36) We do not like section 5 so opposed to bill as written.

Carol Olson, N.D. Board of Occupational Practice: Opposed to bill and dido to other that came before me. We are concerned with public safety.

Gail Hovden, Board of Massage Therapy: (see att #15) We are concerned about the public. Currently, we issue licenses to military spouses under statute and it works well.

Chairman Davison: Any more testimony against? Hearing is closed. (56.41)

(the following did not speak, but oppose)

Att # 17 – Lisa Blanchard
Att # 18 – Michael Gunsch
Att # 19 – Aaron Hummert
Att #20 – Mark Hardy

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB2127
2/18/2019
#32876

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to regulation of the practice of occupations & professions by military dependents;
relating to regulation of occupations & professions.

Minutes:

Chairman Davison: What are the committee wishes?

Vice Chair Meyer: I move a DO NOT PASS. **Sen. Shawn Vedaa:** I second.

Chairman Davison: We have a DO NOT PASS for SB2127. Any discussion?
Call the roll: **YES -- 7 NO -- 0 -0-absent DO NOT PASS – passed**
Vice Chair Meyer will carry the bill.

(Done .45)

2-18-19

Date:
Roll Call Vote #: /

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES SB 2127
BILL/RESOLUTION NO.

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

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 Sen. Meyer Seconded By Sen. Vedaa

Senators	Yes	No	Senators	Yes	No
Chair Davison	/		Sen. Oban	/	
Vice Chair Meyer	/		Sen. Marcellais	/	
Sen. Elkin	/				
Sen. K. Roers	/				
Sen. Vedaa	/				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Meyer

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

REPORT OF STANDING COMMITTEE

SB 2127: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2127 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2127

Military Policy Review

SB 2127 1-25-19

Fr: Sam Burkhard

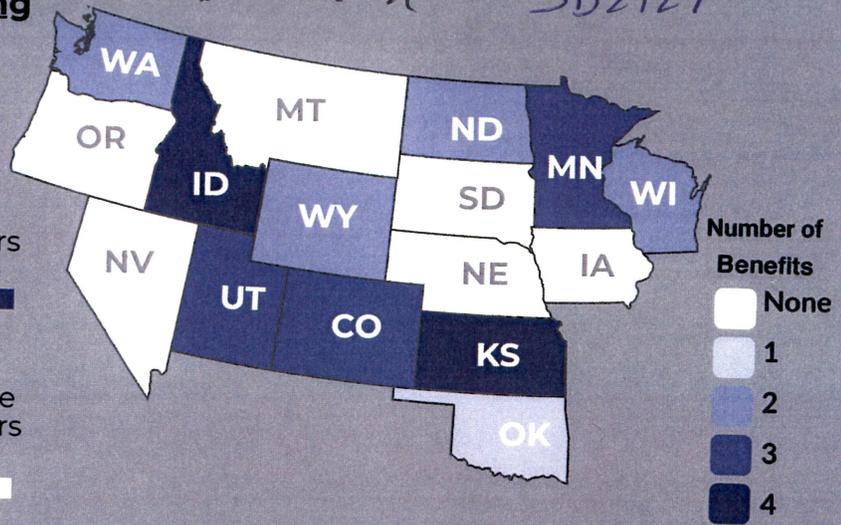
SB2127

AH #1
Pg 1

States with and without Overarching Licensure Policy Impacting Active Military, Veterans and Spouses:

States **with** overarching policy from the General Assembly or Veteran/Military Affairs impacting the licensure process for active military, veterans and spouses. ██████████

States **without** overarching policy from the General Assembly or Veteran/Military Affairs impacting the licensure process for active military, veterans and spouses. ██████████



From the above comparison group, ten states have overarching laws with policies designed to benefit military personnel and their spouses.

There are five benefits that these states offer to veterans, active military, and their spouses through these overarching policies:

1. Waiving renewal fees and continuing education for license holders on active duty
2. Allowing reciprocity or waving requirements for military spouses
3. Allowing applicants to use relevant military training in place of education
4. Reducing licensing fees for active military and recent veterans
5. Expediting the applications of active military and recent veterans

Currently, North Dakota has laws encourage licensing boards to offer two of the five benefits:

- Waiving renewal fees and continuing education requirements for active military personnel
- Allowing reciprocity or granting exceptions to licensing requirements for military spouses

*Idaho and Kansas have the highest number of benefits offered through their military licensing policy. They have four of the five possible military benefits excluding reducing licensing fees.

SB 2127
1-25-19
AH #2
Pg 1

TESTIMONY OF
MAJOR GENERAL AL DOHRMANN
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
25 JANUARY 2019
SENATE BILL 2127

Good morning Mr. Chairman, members of the committee, I am Al Dohrmann, Adjutant General for the state of North Dakota. I am here today to testify in support of Senate Bill 2127.

As Adjutant General, I am a member of the North Dakota Commission on Military Promotion and Strategic Sustainment, a group brought together by the Governor, chaired by the Lt. Governor, made of community leaders from our military communities. The mission of the commission is to develop policies and initiatives that promote North Dakota as a military friendly state, ensuring that we remain competitive for new military missions and investments in North Dakota, and to ensure we, as a state, are ready for any future Base Retention and Closure Commissions.

One of the Commission's objectives is to break-down the barriers to military spouses and dependents gaining employment in our state. This Bill supports that effort.

The most common occupation for military spouses is teaching K-12. Because they tend to move often, teacher spouses must often seek certification in new jurisdictions, a process that can be time-consuming and burdensome. In many cases, these spouses will choose to not join their service member if the likelihood of meaningful employment is low. Geographically separate service members are not good for the family, removes diversity from our communities, and lessen the chances of military families making North Dakota their home.

This Bill will also support our efforts to fill critical open positions in our state, reducing our skilled workforce shortage. With two active-duty Air Force Bases, a large National Guard presence, along with Army, Navy and Marine Corps reserve units in our state, we need to be a leader in providing a military friendly environment. Instead of a spouse and dependents not joining their service members at Minot or Grand Forks Air Force base, let's strive to be the state where the families live while the service member goes to serve in a less military friendly state.

I ask for your support of SB 2127 and will stand by for any questions that you may have.

SB 2127

1-25-19

AH #3

pg 1



Good morning Chairman Davison and members of the Government and Veterans Affairs Committee. My name is Michelle Kommer, and I was recently appointed to serve the citizens of North Dakota as the Commerce Commissioner. I am continuing to serve as Labor Commissioner until a replacement is appointed. I offer support for the spirit of SB 2127 and efforts to ensure that our state's occupational licensing policies achieve important goals, including consumer protection, workforce mobility, and economic growth.

As you know, an occupational license is a credential that government – most often states – requires a worker to hold in certain occupations. Occupational licensing typically requires workers to meet state-specific educational, training, testing, and other requirements to practice in a licensed profession.

There are a wide range of benefits of occupational licensing, ranging from the safeguarding of public health and safety, supporting career development and creating career pathways, and the protection of consumers by guaranteeing minimum educational requirements and industry oversight. Occupational licensing, while often state-specific, is also influenced by industry-specific interstate compacts, federal regulations and other factors.

The share of American workers who hold an occupational license has grown five-fold since the 1950's, when only 5% of workers held licenses. Today, almost a quarter of all employed workers hold occupational licenses. States vary considerably in the share of their workforce that holds a license, ranging from 12% in South Carolina to 33% in Iowa. In North Dakota, 23% of our workforce holds a license. States differ in which occupations they license, and the criteria for those licenses. For example, Michigan requires that licensed security guards have three years of education and training, while most states require 11 days or less. Of the 1,100 occupations that were licensed in at least one state in 2016, only 60 were licensed in every state. Today in North Dakota there are over 80 licensed occupations governed by more than 60 boards, commissions, and agencies.

SB 2127
1-25-19
Att #3
Pg 2

Occupational licensing requirements can have detrimental impact on specific populations, as highlighted in SB2127. Former Federal Trade Commission Chairman Maureen Ohlhausen asserted that “occupational licensing disproportionality affects...military families and veterans.” Licensing requirements can make it difficult for the 360,000 service members who leave or retire from active duty, guard, and reserve service each year, as well as one-third of “trailing spouses” who work in occupations that require licenses or certification from entering occupations that they may be qualified to practice. Compared to civilians, military spouses are 10 times more likely to have moved across states in the last year, making it difficult and costly for them to obtain a new license every time the move to a new state.

As noted in the Workforce Development Council’s October 2018 Report of Recommendations, military organizations in North Dakota employ nearly 14,000 people and create another nearly 4,000 jobs indirectly, with total military impact in North Dakota estimated to exceed a billion dollars. Preserving the presence of our military bases and other operations is essential to our state on many levels, including our ability to meet workforce needs as members of our military possess unique skillsets to close the workforce gap, and easing unnecessary licensing barriers is part of a broader solution.

With a national workforce shortage, state policymakers play a critical role in occupational licensing policies, and in having this dialogue, we join a number of other states where measures are being taken to closely examine occupational licensing requirements, to remove unnecessary barriers.

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



SB 2127
1-25-19
AH #4
pg 1

Testimony
Senate Bill 2127
Government and Veterans Affairs Committee
January 25, 2019; 9:30 a.m.
Education Standards and Practice Board

Good morning Chairman Davison and members of the Government and Veterans Affairs Committee. My name is Rebecca Pitkin and I am the Executive Director of the Education Standards and Practices Board. I am here today to testify for our board, in opposition to SB 2127 relating to the regulation of the practice of occupations and professions by military dependents.

Although the requirements for a military spouse and dependents outlined in this bill reflect the current practices of ESPB as well as the recent changes ESPB has made to reduce barriers for military dependents and spouses, our board does not support SB 2127. Specifically, ESPB does not support Section 5, relating to “the initial twenty-four months” exemption from board regulation over the practice of teaching.

ESPB requires all individuals coming in from another state or country to undergo a Bureau of Criminal Investigation and FBI background check, before they are in a classroom with children. ESPB also checks a National Clearinghouse maintained by the National Association of State Directors of Teacher Education and Certification (NASDTEC) before issuing a license to individuals who come from other states or countries. The National Clearinghouse provides a

SB 2127

1-25-19
AH #4
pg 2

mechanism for licensing agencies to exchange names of educators whose certificates and licenses have been denied, revoked, suspended, surrendered, or otherwise adversely acted upon.

A non-negotiable norm which frames our board discussions is “what is best for kids”. Our board believes SB 2127 does not fit into the framework of “what is best for kids” as it allows an individual to teach in a classroom without the parameters our board has set in place to safeguard children and without recourse to discipline that person when their conduct endangers the safety and welfare of children.

Our board would support a bill with similar intentions which articulates a clear description of an individual in “good standing” and does not advocate for a 24-month exemption period.

This concludes my testimony and I stand for any questions.

TESTIMONY OPPOSED TO SB 2127

PRESENTED BY JAMES SCHMIDT

EXECUTIVE DIRECTOR, NORTH DAKOTA STATE ELECTRICAL BOARD

Mr. Chairman, Members of the Committee:

The term "electrician" can be broad and doesn't mean the individual has the same qualifications required in North Dakota to become an electrician. Some jurisdictions license an individual by simply paying a fee with no electrical training or experience required. Some require a registration only with no training or experience or no oversight at all. Some jurisdictions do not adopt the National Electrical Code or do not follow any codes or do inspections. Some jurisdictions exempt certain work such as oil fields and farms.

Our board currently has an avenue for individuals that have experience in the trade but have come from a state or jurisdiction that does not have similar license requirements as North Dakota. The board offers, under certain circumstances, a placement exam which if passed, allows the applicant to take the ND journeyman exam.

Our main concern is with Section 5 of the bill, which exempts a foreign practitioner from any regulation whatsoever, and allows them to wire unsupervised in ND, without any vetting of their experience or qualifications for 24 months. We believe our current vetting process is fair and reasonable, and we would certainly apply it to military spouses who meet ND standards.

The electrical board office is charged with the duty of ensuring the safeguarding of the residents of North Dakota's buildings and building contents from electrical hazards arising from the use or control of electricity for light, heat, power, and control thereof and of the fire detection system. We are concerned that if ANY electrician is completely unregulated, even for 24 months, it will substantially

SB 2127
1-25-19
AH #5
pg 1

oppose

SB2127
1-25-19
AH #5
pg 2

interfere with that duty. We therefore urge a do not pass vote on SB 2127 in its current form.

We thank the Committee for hearing our concerns and I would be happy to answer any questions the committee may have.

Page 1 of 3
SB 2127
1-25-19
Att #6
D81



North Dakota Supreme Court Rules
Admission to Practice R. 3.3

Lawrence King
Effective October 1, 2016

- HOME
- OPINIONS
- SEARCH
- INDEX
- GUIDES
- LAWYERS
- RULES
- RESEARCH
- COURTS
- CALENDAR
- NOTICES
- NEWS
- SELF HELP
- SUBSCRIBE
- CUSTOMIZE
- COMMENTS

Rule 3.3 Military Spouse Certification

A. General Statement and Eligibility. Due to the unique mobility requirements of military families who support the defense of our nation, a lawyer who is a spouse of a member of the United States Uniformed Services ("service member"), stationed within North Dakota, may apply for certification to practice law under this rule.

B. An applicant under this rule shall file, with the State Board of Law Examiners, an application for a military spouse certification, which must include:

1. An affidavit stating:
 - a. that the lawyer has received a juris doctor or equivalent degree from a law school approved or provisionally approved for accreditation by the American Bar Association;
 - b. that the lawyer has been admitted to practice law and is licensed in another jurisdiction in the United States;
 - c. that the lawyer is currently a member in good standing of the bar of all courts and jurisdictions in which the lawyer is admitted to practice;
 - d. whether the lawyer is currently subject to an order of attorney discipline or the subject of a pending formal disciplinary or disability matter in any jurisdiction; and
 - e. that the lawyer has read and is familiar with the North Dakota Rules of Professional Conduct.
2. A copy of the certification of legal relationship between the lawyer and service member and a copy of the service member's military orders reflecting a permanent change of station to a military installation in North Dakota.

1-25-19

AH # 4

3. A lawyer who receives certification under this rule shall pay an annual fee required for a lawyer who has been licensed in this state for five years or more.

C. A lawyer who receives certification under this rule shall complete at least 45 hours of approved coursework in Continuing Legal Education during each three-year period the lawyer is certified and must file a report as provided in the North Dakota Rules for Continuing Legal Education.

D. Scope of Practice. Except as provided in this rule, a lawyer admitted under this rule is entitled to all rights and privileges and is subject to all duties, obligations, and responsibilities otherwise applicable to licensed North Dakota lawyers for the period of authorized practice under this rule. The attorney may not act as counsel for a client until certified under this rule.

E. Discipline and Disability Jurisdiction. A lawyer certified to practice law under this rule is, as provided in N.D.R. Prof. Conduct 8.5, subject to professional discipline in the same manner and to the same extent as members of the bar of this state.

F. Termination of Certification. Certification under this rule terminates when:

1. The service member is no longer a member of the United States Uniformed Services;
2. The military spouse lawyer is no longer a spouse of the service member;
3. The military spouse lawyer is no longer licensed and in good standing in another jurisdiction in the United States;
4. The service member receives a permanent transfer outside North Dakota, except that if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse lawyer may continue to practice law under this rule until the service member is assigned to a location with dependents authorized; or

SB 2127
Page 3 of 3
AH #6
1-25-19

Admission to Practice R. 3.3 Military Spouse Certification

5. The military spouse lawyer is suspended or disbarred or placed on disability inactive status in any jurisdiction in which the lawyer is admitted.

If any of the events identified in this section occur, the lawyer certified under this rule shall notify the State Board of Law Examiners of the event in writing within fourteen days of the date upon which the event occurs. Certification under this rule is terminated thirty days after notice is received.

G. Required Action After Termination of Certification. Upon the termination of certification under section F of this rule, the lawyer, within thirty days, shall:

1. Cease to occupy an office or other place for the regular practice of law in North Dakota, unless authorized to do so under another rule;
2. Notify in writing all clients in pending matters, and co-counsel and opposing counsel in pending litigation, of the termination of the lawyer's authority to practice law under this rule;
3. Decline any new representation that would require the lawyer to be admitted to practice law in North Dakota; and
4. Take all other necessary steps to protect the interests of the lawyer's clients.

H. Subsequent Attorney Admission. If an attorney certified under this rule is subsequently admitted to the practice of law in North Dakota, the lawyer's military spouse certification is superseded by the license to practice law.

[Adopted effective [October 1, 2016](#)]

19.0446.01000

***** Board of Law Examiners proposed amendments at lines 5 and 6 of page 2; and line 8 at page 5.

SB 2127
1-25-19

Att # 7

PS 1

Sixty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2127

Lawrence King

Introduced by

Senators Burckhard, Bekkedahl, Meyer

Representatives Nathe, Rohr, Satrom

1 A BILL for an Act to create and enact section 43-51-11.2 of the North Dakota Century Code,
2 relating to regulation of the practice of occupations and professions by military dependents; and
3 to amend and reenact sections 15.1-13-17, 27-11-01, 43-51-01, and 43-51-11.1 of the North
4 Dakota Century Code, relating to regulation of occupations and professions.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 15.1-13-17 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15.1-13-17. Teaching license - Requirements - Exceptions.**

- 9 1. An individual may not engage in the profession of teaching unless:
 - 10 a. The individual holds a teaching license issued by the board; ~~or~~
 - 11 b. The individual is approved to teach by the board; or
 - 12 c. The individual is a military dependent exempt under subsection 2 of section
13 43-51-11.2.
- 14 2. An individual may be approved to teach by the board only if the individual has
15 previously held a North Dakota teaching certificate or license, holds a teaching
16 certificate or license issued by another state, or has filed a completed application for
17 licensure with the board.
- 18 3. The board shall adopt rules establishing the terms and conditions under which an
19 individual may be approved to teach, as provided for in this section. The terms and
20 conditions may include the payment of a fine to the board in an amount not exceeding
21 two hundred fifty dollars per incident, enrollment in and completion of continuing
22 education courses, and submission of a completed application for licensure by a date
23 certain.

SB 2127
1-25-19
AH #7
PS 2

1 **SECTION 2. AMENDMENT.** Section 27-11-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **27-11-01. Practicing law and serving on courts of record without certificate of**
4 **admission and without payment of annual license fee prohibited -Penalty.**

5 Except as otherwise provided by state law or supreme court rule, ~~including section~~
6 ~~43-51-11.2~~, a person may not practice law, act as an attorney or counselor at law in this state,
7 or commence, conduct, or defend in any court of record of this state, any action or proceeding
8 in which the person is not a party concerned, nor may a person be qualified to serve on a court
9 of record unless that person has:

- 10 1. Secured from the supreme court a certificate of admission to the bar of this state; and
- 11 2. Secured an annual license therefor from the state board of law examiners.

12 Any person ~~wh~~that violates this section is guilty of a class A misdemeanor.

13 **SECTION 3. AMENDMENT.** Section 43-51-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-51-01. Definitions.**

16 As used in this chapter, unless the context indicates otherwise:

- 17 1. "Board" means a board, commission, or other agency of state government created or
18 identified in this title to regulate a particular occupation or profession.
 - 19 a. The term does not include the:
 - 20 (1) State board of accountancy;
 - 21 (2) State electrical board;
 - 22 (3) North Dakota real estate appraiser qualifications and ethics board;
 - 23 (4) State real estate commission;
 - 24 (5) Secretary of state with respect to contractor licensing;
 - 25 (6) North Dakota board of medicine; and
 - 26 (7) State board of dental examiners.
 - 27 b. "Board" also includes any agency of state government which is created or
28 identified outside this title to regulate a particular occupation or profession if the
29 agency elects, by administrative rule, to invoke the authority in this chapter.
- 30 2. "Foreign practitioner" means an individual who currently holds and maintains a license
31 in good standing to engage in an occupation or profession in a state or jurisdiction

SB 2127
1-25-19
Att #7
Pg 3

- 1 other than this state and who is not the subject of a pending disciplinary action in any
2 state or jurisdiction.
- 3 3. "Good standing" means a foreign practitioner holds a current license that is not issued
4 on a temporary or restricted basis, is not encumbered or on probation, and is not
5 suspended or revoked.
- 6 4. "License" means a license, certificate, permit, or similar authorization to practice an
7 occupation or profession which is issued by a government agency in another state or
8 jurisdiction that imposes requirements for obtaining and maintaining a license which
9 are at least as stringent as the requirements imposed in this state to obtain and
10 maintain a license to practice the same profession or occupation.
- 11 5. "Military dependent" means a foreign practitioner who is a dependent of a member of
12 the armed forces of the United States or a reserve component of the armed forces of
13 the United States stationed in this state in accordance with military orders or stationed
14 in this state before a temporary assignment to duties outside of this state. The term
15 includes a military spouse.
- 16 6. "Military spouse" means a foreign practitioner who is the spouse of a member of the
17 armed forces of the United States or a reserve component of the armed forces of the
18 United States stationed in this state in accordance with military orders or stationed in
19 this state before a temporary assignment to duties outside of this state.
- 20 6.7. "Occupation or profession" means activity for which a license is required from a board
21 or similar activity for which a license is required in another state or jurisdiction.

22 **SECTION 4. AMENDMENT.** Section 43-51-11.1 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-51-11.1. Military spouses - Licensure.**

- 25 1. A board shall adopt rules regarding licensure of a military spouse or shall grant on a
26 case-by-case basis exceptions to the board's licensing standards to allow a military
27 spouse to practice the occupation or profession in the state if upon application to the
28 board:
- 29 a. The military spouse demonstrates competency in the occupation or profession
30 through methods or standards determined by the board which must include

SB 2127
1-25-19
AH #7
P8 4

- 1 experience in the occupation or profession for at least two of the four years
2 preceding the date of application under this section;
- 3 b. The military spouse pays any fees required by the board from which the applicant
4 is seeking a license; and
- 5 c. The board determines the exception will not substantially increase the risk of
6 harm to the public.
- 7 2. Under subsection 1, a board may issue a provisional license or temporary permit to a
8 military spouse for which one or more of the licensure requirements have not been
9 met. A provisional license or temporary permit issued under this subsection remains
10 valid while the military spouse is making progress toward satisfying the necessary
11 unmet licensure requirements. A military spouse may practice under a provisional
12 license or temporary permit issued under this subsection until any of the following
13 occurs:
- 14 a. The board grants or denies the military spouse a North Dakota license under
15 subsection 1 or grants a North Dakota license under the traditional licensure
16 method;
- 17 b. The provisional license or temporary permit expires; or
- 18 c. The military spouse fails to comply with the terms of the provisional license or
19 temporary permit.
- 20 3. A board that is exempted from this chapter under subdivision a of subsection 1 of
21 section 43-51-01 may issue a license, provisional license, or temporary permit to a
22 military spouse in the same manner as provided under subsections 1 and 2. A board
23 that may elect to subject the board to this chapter under subdivision b of subsection 1
24 of section 43-51-01 may issue a license, provisional license, or temporary permit to a
25 military spouse in the same manner as provided under subsections 1 and 2 regardless
26 of whether the board has adopted rules to subject the board to this chapter. The state
27 board of architecture and landscape architecture is exempt from the mandate in
28 subsection 1; however, the board voluntarily may issue a license, provisional license,
29 or temporary permit under subsections 1 and 2.
- 30 4. A military spouse issued a license under this section has the same rights and duties as
31 a licensee issued a license under the traditional licensure method. A military spouse

1 who is exempt from board regulation under section 43-51-11.2 is not prohibited from
2 applying for licensure under this section.

3 **SECTION 5.** Section 43-51-11.2 of the North Dakota Century Code is created and enacted
4 as follows:

5 **43-51-11.2. Military dependents - Licensure exemption - Labor commissioner.**

- 6 1. For purposes of this section, the term "board" includes the boards exempted under
7 subdivision a of subsection 1 of section 43-51-01, the education standards and
8 practices board, and the supreme court and state board of law examiners.
- 9 2. During the initial twenty-four months of residence in this state, a military dependent
10 who is a foreign practitioner is exempt from board regulation over the practice of the
11 occupation or profession for which the military dependent is licensed.
- 12 a. This subsection does not prohibit a military dependent from applying for licensure
13 in this state.
- 14 b. This subsection does not apply to a military dependent who holds a board-issued
15 license.
- 16 c. Sections 43-51-08, 43-51-09, and 43-51-10 do not apply to this subsection.
- 17 d. This subsection applies notwithstanding any other limitation in state law on the
18 practice of an occupation or profession.
- 19 3. A board may seek from the labor commissioner a partial or total exemption from this
20 section. The labor commissioner may not grant an exemption under this subsection
21 unless the labor commissioner determines the exemption is necessary to ensure the
22 health, safety, and welfare of the public.

Testimony in Opposition to SB 2127
Senate Government and Veterans Affairs

SB 2127
1-25-19
AH #8
pg 1

Chairman Davison and Members of the Committee,

My name is Bonnie Staiger and I am here today representing the ND State Board of Architecture and Landscape Architecture. For the past 22 years, our firm (the Staiger Consulting Group) has served as the Executive Director Team and provided central office functions for this board. Among our many responsibilities, the licensing function is primary.

With great respect for Sen. Burckhard and the other sponsors of this bill, we must oppose it's one-size-fits-all sweep and ask that you give the bill a Do Not Pass recommendation because the board of architecture and landscape architecture has already solved the problem this bill is trying to fix.

All U.S. states and territories require a license to practice architecture/landscape architecture as a means of ensuring buildings and grounds are safe, both for their occupants and those nearby. State licensing boards are charged with acting on behalf of the consumer and the larger public – without the efforts of these boards, the public would be left unprotected.

Although standards may vary across jurisdictions, the path to licensure requires a combination of education, practical experience, and examination—all vital components to ensure licensees are competent to design safe buildings in a manner that protects public health, safety, and welfare.

While the path to licensure is necessarily rigorous, licensing boards have joined together to make significant progress to fast-track the licensing requirements. This has significantly reduced the time it takes to become licensed and practice across state lines.

For as long as we've been involved with this board, there has been a national focus on mobility or as we call it "reciprocity" through our membership and participation in the National Council of Architectural Registration Boards and the Council of Landscape Architectural Registration Boards. Collectively 55 state and territorial jurisdictions have collaborated to create a streamlined path by which an individual, once licensed, even for as little as 1 month, can easily get licensed in multiple states by reciprocity without further qualifications. All this preserves each state's constitutional authority and responsibility to protect its citizens. Here in North Dakota we can receive, review, and issue a reciprocal license in about 30 days—assuming the applicant is in good standing--with no pending disciplinary actions.

These universally-accepted standards for licensure, enables out-of-state practitioners to openly compete for work with in-state architects. In 2018, approximately 1059 (84 %) of

8B 2127

1-25-19

AH #8

pg 2

1253 total licensees were non-residents. In the reverse, this streamlining also allows our North Dakota based architects/landscape architects the opportunity to be licensed and easily work across state lines and many have projects in multiple jurisdictions. As an example, we know of one ND architect who is licensed in 31 states.

Lastly, Mr. Chairman and members of the committee, the section allowing boards to seek an exemption from the Labor Commissioner would be a completely subjective exercise, could be revoked, and offers no appeal other than to come back in a future session asking you for statutory exemption. As a result, we request a Do Not Pass recommendation.

SB 2127

1-25-19

AH #9

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Senate Bill 2127

Government and Veteran Affairs Committee

January 25, 2019

Good Morning Mr. Chairman and members of the committee. My name is Dr. Taya Patzman, a member of the State Board of Optometry. Thank you for giving me the opportunity to address this committee today.

I appear before you today, in opposition to Senate Bill 2127. The State Board of Optometry is asking to be included in Section 3, 43-51-01, which would include optometry in the exempt professions. The State Board of Optometry is asking for exemption due to concerns in Section 5.

Senate Bill 2127 would allow a military dependent to obtain licensure for their initial twenty-four months of residence in North Dakota and be exempt from board regulation over the practice of the profession for which the military dependent is licensed. This language removes all disciplinary power and oversight from the State Board of Optometry and poses a safety risk for the citizens of North Dakota.

The definition of "Military Dependent" defined in Section 3 is very vague. It is defined as a foreign practitioner who is a dependent of a member of the armed forces of the United States. The term includes a military spouse; however, a military spouse is also defined. If a dependent is not a spouse, how would dependency be defined?

A lack of Board oversight is very concerning and poses a potential health and safety risk to the public. A military dependent or spouse could be given a license to practice optometry in North Dakota without notification to the Board. If a complaint was received, the Board wouldn't have any record of the optometrist practicing in the state, nor would we have any disciplinary power to rectify the situation. Since the military dependent is not practicing optometry at a military base but in the private sector, it would be expected that the Board of Optometry would have knowledge and oversight for all practitioners in the state.

The State Board of Optometry is not a restrictive board. In the past thirty plus years, the executive director cannot remember refusing licensure if the qualifications of passing the National Board Exam and the twenty-question North Dakota law test are passed. The application process is not lengthy or time-consuming.

The State Board of Optometry's primary intent is to protect the public. Senate Bill 2127 prevents the State Board of Optometry from protecting the citizens of North Dakota. I urge you to vote no on SB 2127 or include Optometry as an exempt profession in Section 3, 43-51-01.

Thank you, Mr. Chairman. I would be happy to answer any questions you may have.

SB 2127
1-25-19
AH #10
PS1

Senate Government and Veterans Affairs Committee
Testimony of Bonnie Storbakken for SB 2127
By Bonnie Storbakken, Executive Secretary for the North Dakota Board of Medicine
January 25, 2019

Hello Chairman Davison and members of the Senate Government and Veterans Affairs Committee. My name is Bonnie Storbakken. I am the Executive Secretary for the North Dakota Board of Medicine. I am here today to discuss our Board's concern regarding SB 2127.

Our Board is responsible for licensing MDs, DOs, PAs, Genetic Counselors and Fluoroscopy Technicians. Within our licensure process we seek information regarding the applicant's training, work history as well as information pertaining to other jurisdictions where the applicant holds a license. Our Board is able to obtain primary source verifications pertaining to education, testing, and other jurisdictions where the applicant holds a license.

This Bill provides for a twenty-four-month exemption to our licensing rules for a military dependent who is a foreign practitioner. A military dependent is defined as a foreign practitioner who is a dependent of a member of the armed forces...including a military spouse. The definition of "foreign practitioner", is an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked. By definition it is clear the applicant must hold a license in another jurisdiction and be in good standing. These are things that our Board looks at through our current application process. However, this bill bypasses our licensing process.

Under this law we would have no way of knowing how many unlicensed military dependents are practicing in the state and or how long they have been practicing. How would we ensure they were properly licensed after the twenty-four-month period? Are they required to notify the Board that they are practicing even though they are not subject to our jurisdiction? If not, how do we know when the twenty-four-month window starts? If they leave after the twenty-four-month window and go to another state but then return to our state a year or two later, can they again practice for another twenty-four months? We would have no information on whether or not they fit the definition of a foreign practitioner. If their license is encumbered somewhere, we would not be able to address it because this bill bypasses our licensing process.

This bill would also bypass our disciplinary process. When the public has a problem with one of our licensees, they may file a complaint in our office. All complaints are reviewed by a panel of our Board. Under this Bill we would have no jurisdiction to discipline a military dependent practicing in North Dakota under this law. The Board would lose credibility with the public and the intent to protect the public would be compromised.

SB2127
1-25-19
AH #10
PJ 2

If the intent of this Bill is to provide an expedited process it would be important to note that SB 2173 has been introduced this session to adopt the Interstate Medical Licensure Compact. The aim of this compact is to provide an expedited process for licensing across the states. This Bill ensures that the proper credentialing process is completed by a home state and allows for a quick process in the other states the applicant has selected.

The last section of this bill allows a board to make application to the Labor Commissioner for a partial or total exemption. Having been the Labor Commissioner at one time, I question the effectiveness of this section. It is my understanding that the workload in the Department of Labor is extensive. Currently the Labor Commissioner is overseeing two agencies. When a new Labor Commissioner is appointed, they will be faced with learning the roles of the department as well as learning about any and all Boards making application for an exemption. This is time consuming for all parties involved.



NORTH DAKOTA STATE BOARD OF COSMETOLOGY

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SB 2127
1-25-19
AH * 11
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Government and Veterans Affairs

January 25, 2019

TESTIMONY OF MAUREEN WANNER

NORTH DAKOTA STATE BOARD OF COSMETOLOGY

Senate Bill NO. 2127

Mr. Chairman, members of the Committee, I am Maureen Wanner, member of the Board of Cosmetology, and I appear on behalf of the Board. I am also a military spouse of a soldier who retired after 26 years of service.

The North Dakota State Board opposes Senate Bill No. 2127, relating to the practice of occupations and professions by military dependents. Under this bill, military dependents are exempt from any requirements for licensure for two years. A dependent can come to North Dakota and begin practicing without being licensed by the board. The board would have no authority or jurisdiction over the practice.

The state has a significant public health interest in regulating cosmetologists, estheticians, and manicurists to verify that they are practicing in a safe and sanitary manner. The Board's primary concern is not having any jurisdiction on who is practicing, where they are practicing, and if they are following the rules & regulations on sanitation to protect the public health, welfare, and safety through the prevention of the creating and spreading of infectious and contagious diseases. The Board inspects every salon on a regular basis to make sure that the public is safe from unsanitary conditions and the spread of infectious diseases. The public deserves the same level of protection from all of those practicing in North Dakota.

The Board understands that military families move frequently, which is why North Dakota has a law regarding licensure of a military spouse, NDCC 43-51-11.1. The Board has been granting licenses under the Military Spouse law for years with no problems. The Board would, therefore, propose that the military spouse law be amended to include military dependents.

Permitting anyone to practice cosmetology without any regulations will not protect the public health and safety.

Thank you for allowing the North Dakota Board of Cosmetology to present its concerns to you. The Board opposes the bill and I will answer any questions you may have.

SB 2127
1-25-19

Alt #18
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S.B. 2127

GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

TESTIMONY OF NORTH DAKOTA STATE BOARD OF RESPIRATORY CARE

Mr. Chairman, members of the committee, I am Barbara Andrist, a member of the North Dakota State Board of Respiratory Care. I am here today to explain why the Board is opposing bill 2127.

The Board of Respiratory Care is tasked with safeguarding the public as it relates to respiratory care. Our Board has major concerns with section 5 of this bill. To allow individuals to practice without a license, and to prevent the board from regulating their practice for any period of time puts the public at risk. If a licensed practitioner injures someone during the course of respiratory therapy due to gross negligence, that practitioner should not continue practicing without reprimand—this bill would allow for just that, however.

Our Board understands the concerns this bill is intended to address. The Board already has a streamlined process for licensure of out of state practitioners which addresses these concerns and has generally streamlined the process for licensure to prevent unneeded delay of entry of healthcare practitioners into the workforce while considering all of the necessary requirements. This bill is unnecessary as the concerns are already addressed in our laws, chapter 43-42.

Adding the labor commissioner to seek a partial or total exemption adds an individual who is not familiar with our boards' scope of practice or requirements. Another layer adds delay to our work of getting licensed qualified people safely to work in our state.

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SB 2127
1-25-19
Att #12
Pg 2

This bill does not protect the public. For that reason, the North Dakota State Board of Respiratory Care opposes bill 2127.

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



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SB 2127
1-25-19
AH #13
PS1

Testimony in opposition of Senate Bill 2127 – licensure of military dependents

Jeanne Prom, Executive Director
North Dakota Real Estate Commission

Senate Government and Veterans Affairs Committee

Senator Kyle Davison, Chair

9:30 a.m., January 25, 2019

Good morning, Chairman Davison and members of the Senate Government and Veterans Affairs Committee. I am Jeanne Prom, executive director of the North Dakota Real Estate Commission. The commission licenses real estate practitioners.

The N.D. Real Estate Commission urges a Do Not Pass recommendation on Senate Bill 2127 as written for the following reasons.

The proposed law changes for military dependents who are also foreign practitioners:

- Apply to all occupational licensing boards, rather than a tailored approach to address specific statutory requirements of boards:
 - For example: Would a licensed real estate practitioner who qualifies for these exemptions need to practice with a real estate broker, or establish themselves as a broker and firm, as required by N.D. law (NDCC § 43-23-06.1.11)?
- Appear to exempt military dependents who are foreign practitioners from any complaints or disciplinary actions for the initial 24 months practicing in this state.
- Appear to prohibit a criminal history background check unless the practitioner applies for a license.
- Appear to prohibit requiring at least a state examination on state-specific practice laws unless the practitioner applies for a license.
- Do not address which state would determine continuing education requirements during the initial 24 months.

Thank you, Chairman Davison and committee for your thoughtful consideration. I am available for your questions.

Members of the North Dakota Real Estate Commission are: Roger Cymbaluk, Chair; Scott Breidenbach, Vice Chair; members: Sandra Meyer, Steven Bitz, Diane Louser. Staff: Jeanne Prom, executive director.

Senate Government and Veterans Affairs Committee

SB 2127

January 25, 2019

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

SB 2127
1-25-19
AH #14
p81

Chairman Davison and members of the Senate Government and Veterans Affairs 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 SB 2127.

The board's largest concern with this bill is the twenty-four month exemption from board regulation for military dependents. The state has delegated the duty to license and regulate podiatrists in this state for the benefit of its citizens. The board's duty is to ensure the health, safety and welfare of the public. Simply put, this bill will not allow the board to do its job. There is a reason the state has licensure standards. The public relies on the state, through the board, to ensure that the podiatrists providing medical care and treatment to the citizens of this state have the proper qualifications and training. This bill simply removes the board from the process completely and allows military dependants to practice podiatric medicine without a license.

Not only is the board responsible for licensing, the board is also in place so that the public has a specific agency to turn to if they are harmed or feel mistreated in some way by a podiatrist. They can reach out to the board with a concern without having to find an attorney or bring an action of their own. Some citizens do not have the means to afford an attorney or even to find an attorney willing to investigate their concern. When a complaint is filed, it is fully investigated by the board and action is taken if the board finds grounds for discipline. This is done at no cost to the citizen.

SB 2127
1-25-19
Att # 14
Pg 2

Conversely, if there is no license issued, then there is no license available to take action against. What power does the state have against the practitioner? For instance, a few years ago the board had a podiatrist that began treating people with prescription drugs for what was dubbed 'medically supported' weight loss. This was completely outside of the podiatrist's scope of practice and the board brought an action against the podiatrist. The podiatrist was sanctioned and the weight loss clinic was closed. This practitioner refocused their practice back to podiatry and continues to practice in North Dakota today. If this podiatrist had not held a license to take action against, how would the state have stopped this podiatrist and protected its citizens? A lot of patients can be seen and much harm can be done in twenty-four months.

In addition, I would question whether or not a facility would even hire a podiatrist that does not hold a valid state license, even if they were statutorily exempt? If the intent of this bill is to get military dependants working in their field faster, then the expedited licensure process already found in this chapter should assist with that issue. The podiatry board already issues a temporary license once an application is complete and there are no concerns. This can be done within days after the application is complete. How quickly the application is completed is, for the most part, up to the applicant. In the time that I have been with the board (approximately eight years), I do not believe we have had a military dependent apply for licensure. If there are certain boards that are problematic with delaying licensure for military dependants, would it not be better to address the specific licensure statutes individually than to paint with such a broad brush?

In summary, the board feels that the public's safety would be at risk if this bill passed and allowed licensure for any amount of time without any regulation whatsoever.

Thank you for your consideration.



NORTH DAKOTA STATE BOARD OF OCCUPATIONAL THERAPY PRACTICE

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SB 2127
1-25-19
AH #15
pg 1

Dear Chairman Davison and Government and Veteran Affairs committee members.

Thank you for providing the opportunity to testify with regard to SB 2127. My name is Carol Olson and I am representing the North Dakota State Board of Occupational Therapy Practice who opposes SB 2127.

Our primary concern with this bill is that an individual could practice occupational therapy for up to 24 months without a North Dakota license. Allowing practice without a license means the individual is not held to ethical, legal, and practice standards expected of those practicing Occupational Therapy in the State of North Dakota. Therefore, if the individual provides unethical or improper care there is nothing protecting the consumer as the board would have no authority or jurisdiction over the practice.

In the case of the North Dakota Board of Occupational Therapy Practice, we have not experienced instances where a military spouse was denied a license; therefore, this bill seems like unnecessary regulation. In addition to the military spouse license law, the board's current law offers reciprocity, which allows for any individual who is licensed in another state with equal standards to gain license in ND. Our process is efficient and we have not experienced instances where someone was unable to get a license to practice in ND in a timely fashion. In fact, when all application materials are submitted, it is typically only days until the applicant receives the license.

This regulation is in contrast to our law which requires that one cannot practice occupational therapy in the state unless they are licensed. In the interests of protecting the public and consumers of North Dakota, the Board requests a do not pass on SB 2127.

I will now address any questions you may have.

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North Dakota Board of Massage Therapy

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SB 2127
1-25-19
AH #16
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S.B. 2127

AH #16
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GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

TESTIMONY OF NORTH DAKOTA BOARD OF MASSAGE THERAPY

Mr. Chairman, members of the committee, I am Gail Hovden and I am appearing on behalf of the North Dakota Massage Therapy Board. I am here today to explain why the Board is opposing Bill 2127.

Under this bill, a military dependent can come to North Dakota and begin practicing no matter past experience, education, discipline, etc. The Board would have no authority or jurisdiction over the practicing dependent and could not discipline if needed. It is stated that the labor commission could grant exceptions but there is no clear parameters for determining the exceptions.

The bill, as presented, does not set up any oversight or parameters for verifying that the person practicing is actually a military dependent. The concern of the Board is this exception being exploited by those seeking to enter North Dakota in human trafficking and prostitution rings, claiming they are "military dependents" without any verification.

North Dakota Century Code chapter 43-25, requiring a North Dakota license to practice massage in this state, affords the board oversight over a practice that unfortunately is used as a front for prostitution and human trafficking. Under the law, the Board is able to do a background check and verify the education of the applicant, weeding out fraudulent applications or flagging those that raise concerns. The Board works closely with the Department of Homeland Security and law enforcement with the questionable applications. However, it is only the Board's ability to issue licenses - inquiring into the applicant's past, background, schooling, etc. - that allow the Board to keep oversight over this area. The concern would be that a person would just claim to be a "military dependent" exempt from state licensure requirements. The bill does not provide any mechanism for verifying the individual is a military dependent or whose responsibility it would be to provide such verification.

Another concern with the bill is the Board could not conduct inspections of military dependent massage therapy establishments. North Dakota Century Code chapter 43-25 and North Dakota Administrative Code article 49-03 allow the Board to perform inspections of establishments in order to verify licensees are providing massages in safe and sanitary conditions, protecting the health and safety of the citizens of North Dakota. Under bill 2127, the Board would not be able to conduct inspections of military dependent establishments.

Furthermore, it is through these inspections that the Board has come across establishments raising concerns of human trafficking and prostitution. The Board is able to work closely with law enforcement with such findings. Bill 2127 would take away the Board's ability to enter such establishments and conduct inspections if the individual claims they are a "military dependent." Again, the bill provides no oversight or parameters for verification for such practices.

Finally, bill 2127 does not allow the Board to have any authority to discipline a military dependent. 43-25-10 outlines the grounds in which the Board can take disciplinary action against state licensees and includes things such as convictions having a direct bearing on the ability to serve the public or providing massages in unsafe or unsanitary establishments. As a specific example, the Board is

SB 2127
1-25-19
AH #16

currently dealing with an individual who sexually assaulted a client during a massage. If this person was a "military dependent," bill 2127 would take away the Board's ability to discipline the individual as they would be considered outside the jurisdiction of the Board.

Currently the Board issues licenses to military spouses who move to North Dakota under North Dakota Century Code section 43-51-11.1 and its own reciprocity laws. The licensure process set forth under the existing laws work well and the Board has never denied a license to a military spouse. The Board therefor would recommend adding "military dependent" to 43-51-11.1, allowing the Board to continue to utilize a licensure process that works well and still protects the public.

Thank you for allowing me time to explain why the Massage Therapy Board does not agree with this bill. If you have any questions I'd be happy to answer them at this time.

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*SB 2127
1-25-19
AH #17
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GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

TESTIMONY OF NORTH DAKOTA STATE BOARD OF CHIROPRACTIC
EXAMINERS

Mr. Chairman, members of the committee, I am Lisa Blanchard, the Executive Director of the North Dakota State Board of Chiropractic Examiners . I am here today to explain why the Board is opposing bill 2127.

The Board of Chiropractic Examiners is tasked with protecting the public by ensuring that only qualified candidates are practicing chiropractic within the state. Section 5 specifically allows individuals to practice for a period of time without licensure by the board, and without being subject to board jurisdiction for the purposes of discipline. This puts the public at risk.

If a person practicing chiropractic under the proposed 43-51-11.2 were to violate rules or put the public at risk, the Board would have no recourse or ability to prevent that person from continuing to practice. For a period of 24 months, that individual gets to practice unchecked and with no repercussions.

I understand the purpose and the intent of Senate Bill 2127. But since I became executive director in 2011, the Board has never denied a license. Further, the Board already has a streamlined process for reciprocity licensure. This bill is unnecessary as the concerns regarding expedient licensure of military dependents are already addressed in our laws, chapter 43-06.

SB 2127

1-25-19

AH #17
Pg 2

This bill does not allow the Board to perform its duty because it does not allow the Board to protect the public. For that reason, the North Dakota State Board of Chiropractic Examiners opposes bill 2127.

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

not speak oppose

**Government and Veterans Affairs Committee
SB 2127 – Hearing (date)**

SB 2127
1-25-19

AA #18

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Chairman Davison and members of the Committee, I am Michael Gunsch, a Professional Engineer, licensed in North Dakota, representing the North Dakota Society of Professional Engineers as their Legislative Committee Chairman, in opposition to SB 2127:

Let me start by referencing NDCC 43-19.1-01. *General Provisions.*

“In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and land surveying in this state is hereby declared to be subject to regulation in the public interest, and it hereby is declared necessary that a state board of registration for professional engineers and land surveyors be established... ...The right to engage in the practice of engineering or land surveying is deemed a personal right, based on the qualifications of the individual as evidenced by the individual's certificate of registration, which is not transferable. {emphasis added}

SB 2127 would exempt during the initial twenty-four months of residence in North Dakota a military spouse or dependent who is licensed in another state/territory from board regulation over the practice of the occupation or profession (e.g., engineering) for which the military dependent is licensed. Openly allowing individuals to practice engineering without jurisdictional oversight significantly increases the risk for poor and negligent design in the construction of public and private building, structures, facilities and systems, which has the potential to endanger the public.

The NDCC already grants the licensing boards flexibility in licensing military spouses. While the issue of licensure comity for such situations is understood SB 2127 is unnecessary and, in our opinion, is not the applicable path for this to occur for someone practicing outside the teaching profession. During this twenty-four-month period the individual could open a private engineering practice and operate entirely outside the purview of the North Dakota Board of Registration for Engineering and Land Surveyors oversight and their enforcement authority. This creates a concern with an individual practicing engineering in North Dakota that does not meet our state's licensure standards, could be subject to unknown complaints, under suspension in another jurisdiction, or is simply not qualified. This is inherently unacceptable to the North Dakota Society of Professional Engineers and our obligation to protect the public.

SB 2127

1-25-19
AH #18
pg 2

We are not opposed to permitting military spouses/dependents to engage in their occupations/professions when the military orders a move to another stateside location. Understand, however, their professional credentials must be properly vetted under our state's laws and regulations, which would not occur under SB 2127. Again, you could have an unqualified professional set up in private practice contrary to our licensure practice. In the case of engineers and surveyors if they are practicing under another licensed professional they are not restricted from practicing or working in their profession. If truly qualified, they could obtain licensure, or chose not to, in a reasonable period depending on where they are employed.

The North Dakota Board of Registration for Professional Engineers and Land Surveyors, comprised of highly qualified licensed professionals, should remain the authoritative body to make determinations relative to a professional's credentials for licensure. SB 2127 is not in the best interest of our citizens or those currently licensed in North Dakota. After consultation with the North Dakota Society of Professional Engineers and Land Surveyors we understand they have formally taken a position in opposition to SB 2127.

In conclusion, we respectfully request that you oppose SB 2127 and recommend a "DO NOT PASS".

SB 2127
1-25-19
AH #19
pg 1



*Oppose
not
speak*

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Date: January 25, 2019

Chairman Davison, Members of the Government and Veterans Affairs Committee.

My name is Aaron Hummert, I am a Professional Land Surveyor licensed in North Dakota, South Dakota, Montana, Minnesota, Wisconsin, and Wyoming. I am the Co-Chair of the North Dakota Society of Professional Land Surveyors (NDSPLS) Legislative Committee.

The North Dakota Society of Professional Land Surveyors is OPPOSED to Senate Bill No. 2127.

Every day, Professional Land Surveyors are required to adhere to state-specific rules and regulations pertaining to real property, zoning, recordation, county and city administration, sanitation, water rights, oil and gas development, flood plain management, and many others. These regulations can vary widely from state to state. A few of the differences are as follows:

- 20 States are non-Public Land States. That is they are not part of the Public Land Survey System (PLSS). In non-Public Land States, land is not divided up into sections and different procedures and methods apply.
- In North Dakota and South Dakota there is a 33' statutory easement for public travel on each side of all section lines, while in Wyoming and Montana there is no statutory easement at all.
- Per North Dakota code, structures built in the flood plain must be built at least one foot above the base flood elevation, whereas in Montana, structures must be built two feet above the base flood elevation.
- Platting requirements vary significantly from state to state.

It is our position that, due to the inherent differences between states, it is extremely important that an applicant display a level of competency with regards to state-specific regulations prior to being eligible to work without supervision. Furthermore, it is the Society's position that the pathway to licensure is already expedient for both residents and non-residents. For comity applicants, the current rules require that the applicant take a 2-hour state-specific exam. If the applicant meets the current education and experience requirements and has not had disciplinary action taken against them, the application and testing process can be completed within 30 days. Lastly, the Society does not feel there is a barrier to out-of-state practitioners and military spouses. Currently, of the 508 registered land surveyors in North Dakota, 122 are residents. The majority of land surveyors licensed in North Dakota are non-residents.

It is the surveyor's role and obligation to safeguard the property rights of individuals and the Public. The effects of malpractice can be devastating and can have horrible consequences for all parties involved. For the reasons stated above, NDSPLS believes the provisions set forth in Senate Bill No. 2127 are fundamentally flawed and would prove to be detrimental for the client, the Public and the professional practicing Land Surveying in the State of North Dakota.

Therefore, NDSPLS urges a DO NOT PASS on Senate Bill No. 2127.

Respectfully submitted,

Aaron Hummert, PLS
Co-Chair of the Legislative Committee
North Dakota Society of Professional Land Surveyors



State of North Dakota
Doug Burgum, Governor

*Pam
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STATE BOARD OF PHARMACY

*SB 2127
1-25-19
att #20
pg 1*

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Mark J. Hardy, PharmD, R.Ph.
Executive Director

Senate Bill No 2127 – Military Dependent Occupations & Professions

Government & Veterans Affairs Committee – Sheyenne River Room
9:30 AM - Friday – January 25, 2019

Chairman Davison, members of the Senate Government & Veterans Affairs Committee, for the record I am Mark J. Hardy, PharmD, Executive Director of the North Dakota State Board of Pharmacy.

I appreciate the opportunity to discuss with you our concerns on Senate Bill 2127 today.

After reviewing this legislation, the Board of Pharmacy is very concerned with the provisions in section 5 of this bill. While the Board understands and appreciates the intent of the sponsors to ease licensure processes for military dependents, allowing individuals to practice without assuring competencies are met and not considering any disciplinary action is an extremely concerning policy. This would be our concern driven by subsection 2 Lines 9-11 on page 5 *Exempting a military dependent from Board Regulation regardless of occupation or profession.* There may be certain Boards or professions where this approach may be reasonable. However, in the case of the Board of Pharmacy we certainly feel it is important to maintain jurisdiction over the individual practicing in the profession on the citizens of North Dakota for the safety of the public.

The Board of Pharmacy has safeguards in place to ensure the individuals are properly educated and trained to practice pharmacy for the wellbeing and safety of the citizens in North Dakota. The North Dakota Board of Pharmacy currently participates in an electronic license transfer program [eLTLP] through the National Association of Boards of Pharmacy [NABP] in which all 50 states are members and participate. With eLTP a pharmacist licensed by one jurisdiction can request licensure transfer; their licensure is then verified along with any disciplinary actions and electronically sent to the state the professional wishes to become licensed. Understandably, Boards of Pharmacy are more mature with this capability due to the unique aspects of our profession. Also, there is a state law examination for the jurisdiction the person wishes to practice within. For our profession, specifically, the law is such a critical aspect of pharmacy practice. There are tremendous variations in controlled substance laws, dispensing and professional responsibility laws across state lines making pharmacists a safeguard between the prescribing practitioner and the patient.

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SB 2127
1-25-19
AH #20
Pg 2

The current license transfer process for pharmacists is very easy to navigate, allowing a candidate to sit for the computerized law test at a testing center of their choice, wherever is most convenient and the results are reported within days. We have reports of candidates being licensed in 10-14 days after successful application and testing.

We understand this is an attempt to ease the movement of military personnel and military spouses between states. However, the tenets of this bill effectively strip the Board of the jurisdiction to ensure competence and compliance to practice for the citizens of North Dakota.

The Board of Pharmacy understands that we could look for an exemption from the Labor Commission at a later date. While that is a worthy provision, the Board of Pharmacy would have to education the Labor Commission on the tasks and be at the mercy of those individuals to decide if we qualified or not. The passing of this legislation would more than likely put us out of compliance with the standards set forth in the NABP bylaws, which would then potentially not allow any North Dakota Pharmacist Licensee to participate in the electronic transfer system. The Board of Pharmacy advocates caution and believes other legislation might better pave the way for military and their spouses that does not pose the risk of uprooting the safeguards in place.

The Board of Pharmacy respectfully asks for Do NOT Pass vote on SB 2127 as it is presented.

Thank you for listening to my testimony and I will be happy to answer any questions.