

1999 HOUSE HUMAN SERVICES

HB 1467

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1467

House Human Services Committee

Conference Committee

Hearing Date January 26, 1999

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|------------|
| 1 | | X | 0.0 - 33.9 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Susan Lundteigen</i> | | | |

Minutes:

Rep. KEN SVEDJAN, District 17, testified (Testimony attached).

DOUGLAS BAHR, Assistant Attorney General, ND State Board of Occupational Therapy

Practice, testified (Testimony attached). We proposed amendment to change three words:

page 1, line 21 change occupational to occupation

page 3, line 19, change therapy to therapist

page 3, line 29, change therapist to therapy

Rep. ROBIN WEISZ asked on page 10, Section 12, does the board have the ability to ask for an injunction to restrain an individual?

DOUGLAS BAHR stated we don't know because they haven't tried. No board has attempted to do it without the specific language. Most practice acts contain this type of language. That's the purpose of those boards is to protect and regulate this area of the law. If someone is out

practicing occupational therapy and hung up the shingle, so to speak, the board doesn't have to wait until someone comes in and is seriously injured. They can go in and determine if they are practicing without a license. If its against the law, the court will order them to quit. It's not seeking civil damages. The board just has to show that they're violating the law. Rep. ROBIN WEISZ asked can't they be stopped from practicing under Sec 43-40-02? DOUGLAS BAHR stated the problem is that many states attorneys have to decide to bring the criminal action. They determine that bringing an action for practicing without a license becomes not a high priority when dealing with murder, rape, etc. The board hates to go to the states attorney and ask them to do it. If someone is practicing without a license or outside of the scope, the board will write a letter advising them of the law and ask them to quit. Then they advise the states attorney or maybe not take any action. The Board would like to seek civil injunction, if necessary.

Rep. PAT GALVIN asked on page 4, Sec 11, of Doug Bahr testimony can the board take disciplinary action without due process? DOUGLAS BAHR stated the board can take disciplinary action to regulate the action. They do give due process through chapter 28-32, administrative agencies practice act. Page 10 of the bill references chapter 28-32.

Rep. ROXANNE JENSEN stated the board imposes a fine or fee and asked is it customary in other government rules? DOUGLAS BAHR stated last session that three or four professional boards had this specific language added to their practice act. There is probably 8 - 10 practices acts that have the language now. It's not automatic. The judge and the board has to determine the amount of the fee.

Rep. ROBIN WEISZ asked in Section 1, line 30, page 2 - 3, for an explanation on the deletion of the language, rules of the board, and the definition of therapy aid. DOUGLAS BAHR defined

therapy aid and further stated that he believed this body or the committee wouldn't want to take the time to receive all the hearings and all the information to make that determination of exactly what monalities and what practices that aid would be competent to do. This simply gives the board authority to do the rules and do the public hearing process with inputs from the community to define exactly what an aid can do and what would be prohibited.

GREGORY JUND, Occupational Therapist, testified (Testimony attached). Included is an Occupational Therapy Fact Sheet and letters from UND and NDSCS (attached).

KATHRYN PERRIN, Director of Occupational Therapy, University of Mary, Bismarck, testified (Testimony attached). The program at the University of Mary is to prepare an occupational therapist to provide safe, effective and competent occupational therapy.

NICOLE HOLZWORTH, University of Mary, testified on behalf of the senior class in support of the bill.

OPPOSITION

None

Hearing closed.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1467

House Human Services Committee

Conference Committee

Hearing Date February 1, 1999

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|------------|
| 1 | X | | 27.4 - End |
| 1 | | X | 0.0 - 6.9 |
| Committee Clerk Signature <i>Susann Lundteigen</i> | | | |

Minutes:

Committee Discussion.

Rep. CLARA SUE PRICE had Scott Huizenga, Intern, Human Services Committee, check on the terms used in the amendment. His research showed the terms were used in the profession of occupational therapy.

Rep. TODD PORTER moved to ADOPT AMENDMENT

Rep. AMY KLINISKE second the motion.

Further committee discussion.

VOICE VOTE: 13 yeas, 0 nays, 2 absent Unanimous

Rep. ROXANNE JENSEN moved DO PASS As AMENDED

Rep. WANDA ROSE second the motion

Committee Discussion

Page 2

House Human Services Committee

Bill/Resolution Number HB 1467

Hearing Date February 1, 1999

Rep. ROBIN WEISZ discussed page 10, line 29 and expressed concern about a civil injunction.

It appears they are doing an end run around the states attorney.

Rep. AMY KLINISKE discussed criminal remedy and that it falls back on the person bringing the action.

Rep. ROXANNE JENSEN moved to WITHDRAW MOTION.

Rep. WANDA ROSE agreed to WITHDRAW SECOND.

Rep. ROBIN WEISZ discussed amending page 10, delete line 29.

Rep. ROBIN WEISZ moved to ADOPT AMENDMENT.

Rep. CHET POLLERT second the motion.

Further Committee Discussion.

ROLL CALL VOTE #2: 10 yeas, 4 nays, 1 absent

Further Committee Discussion.

Rep. ROBIN WEISZ asked how much power do the Boards get? Boards didn't have regulations in place last session. Rep. WANDA ROSE stated this is consumer protection. Rep. CLARA SUE PRICE stated the original language already identifies guilty of a Class B misdemeanor.

Rep. ROBIN WEISZ expressed concern that the Board will expand their jurisdiction and on page 12, line 2, regulation should be defined.

Rep. ROBIN WEISZ moved to ADOPT AMENDMENT to change regulation to licensure.

Rep. DALE HENEGAR second the motion.

Further Committee Discussion.

ROLL CALL VOTE #3: 7 yeas, 7 nays, 1 absent

Motion Lost.

Page 3

House Human Services Committee

Bill/Resolution Number HB 1467

Hearing Date February 1, 1999

Rep. ROXANNE JENSEN moved DO PASS As AMENDED.

Rep. WANDA ROSE second the motion.

ROLL CALL VOTE #4: 14 yeas, 0 nays, 1 absent

CARRIER: Rep. ROXANNE JENSEN

JAN 25 1999

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1467 Amendment to: _____

Requested by Legislative Council Date of Request: 1-20-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

No effect on board revenues + fees of licensed therapists.

- 2. State fiscal effect in dollar amounts:

| 1997-99 Biennium | | 1999-2001 Biennium | | 2001-03 Biennium | |
|------------------|---------------|--------------------|---------------|------------------|---------------|
| General Fund | Special Funds | General Fund | Special Funds | General Fund | Special Funds |

Revenues:

Expenditures:

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:
 - a. For rest of 1997-99 biennium: _____
 - b. For the 1999-2001 biennium: _____
 - c. For the 2001-03 biennium: _____

- 4. County, City, and School District fiscal effect in dollar amounts:

| 1997-99 Biennium | | | 1999-2001 Biennium | | | 2001-03 Biennium | | |
|------------------|--------|------------------|--------------------|--------|------------------|------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |

If additional space is needed, attach a supplemental sheet.

Signed Sandra E. Gabrielsen

Typed Name Sandra E. Gabrielsen

Department ND State Board of OT Practice

Phone Number (701) 293-7971

Date Prepared: Jan 22, 1999

VK

HOUSE AMENDMENTS TO HOUSE BILL NO. 1467 HUMSER 2-1-99 2/1/99

Page 1, line 21, replace "occupational" with "occupation"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1467 HUMSER 2-1-99

Page 3, line 19, replace "therapy" with "therapist"

Page 3, line 29, replace the second "therapist" with "therapy"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1467 HUMSER 2-1-99

Page 10, line 29, remove ", without proof of actual damages sustained by any person"

Renumber accordingly

Date: 2-1-99
 Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1467

House Human Services Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment delete line 29 pg 10

Motion Made By Robin Weisz Seconded By Chet Pollert

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|-------------------|-----|----|
| Clara Sue Price - Chairwoman | X | | Bruce A. Eckre | X | |
| Robin Weisz - Vice Chairman | X | | Ralph Metcalf | X | |
| William R. Devlin | X | | Carol A. Niemeier | | X |
| Pat Galvin | X | | Wanda Rose | | X |
| Dale L. Henegar | X | | Sally M. Sandvig | | X |
| Roxanne Jensen | X | | | | |
| Amy N. Kliniske | | X | | | |
| Chet Pollert | X | | | | |
| Todd Porter | X | | | | |
| Blair Thoreson | | | | | |
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Total Yes 10 No 4
 Absent 1

Floor Assignment _____

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

Date: 2-1-99
 Roll Call Vote #: 3

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1467

House Human Services Committee

Subcommittee on _____
 or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment Change regulation to business

Motion Made By Robin Weisz Seconded By Dale Henegar

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|-------------------|-----|----|
| Clara Sue Price - Chairwoman | X | | Bruce A. Eckre | | X |
| Robin Weisz - Vice Chairman | X | | Ralph Metcalf | | X |
| William R. Devlin | X | | Carol A. Niemeier | | X |
| Pat Galvin | X | | Wanda Rose | | X |
| Dale L. Henegar | X | | Sally M. Sandvig | | X |
| Roxanne Jensen | | X | | | |
| Amy N. Kliniske | | X | | | |
| Chet Pollert | X | | | | |
| Todd Porter | X | | | | |
| Blair Thoreson | | | | | |
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Total Yes 7 No 7
 Absent 1

Lost

Floor Assignment _____

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

Date: 2-1-99
 Roll Call Vote #: 21

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1467

House Human Services Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Roxanne Jensen Seconded By Wanda Rose

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|-------------------|-----|----|
| Clara Sue Price - Chairwoman | X | | Bruce A. Eckre | X | |
| Robin Weisz - Vice Chairman | X | | Ralph Metcalf | X | |
| William R. Devlin | X | | Carol A. Niemeier | X | |
| Pat Galvin | X | | Wanda Rose | X | |
| Dale L. Henegar | X | | Sally M. Sandvig | X | |
| Roxanne Jensen | X | | | | |
| Amy N. Kliniske | X | | | | |
| Chet Pollert | X | | | | |
| Todd Porter | X | | | | |
| Blair Thoreson | | | | | |
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Total Yes 14 No 0
 Absent 1

Floor Assignment Jensen

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

REPORT OF STANDING COMMITTEE

HB 1467: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1467 was placed on the Sixth order on the calendar.

Page 1, line 21, replace "occupational" with "occupation"

Page 3, line 19, replace "therapy" with "therapist"

Page 3, line 29, replace the second "therapist" with "therapy"

Page 10, line 29, remove ", without proof of actual damages sustained by any person"

Renumber accordingly

1999 SENATE HUMAN SERVICES

HB 1467

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1467

Senate Human Services Committee

Conference Committee

Hearing Date MARCH 15, 1999

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | X | | 3,425 |
| 3/16/99 2 | X | | 3,740 |
| Committee Clerk Signature <i>Barol Kolodziejchuk</i> | | | |

Minutes:

The hearing was opened on HB1467.

SENATOR SVEDJAN, sponsor, introduced the bill. (written testimony).

DOUG BAHR, Ass't Attorney General, reviewed the bill in written testimony. SENATOR

DEMERS: Do we want two different titles for same person. MR. BAHR will check code number 12.1-33-02.1. The intent is that people teaching must be also be certified.

SONJA BERG, Therapy Board and Educator at U of Mary Occupational Therapy Dept.

Occupation is defined as active process of doing or a process of someone engaged in an activity

that is gratifying and meaningful. If an individual was in good standing in the state of most

recent practice, just applying for a license in ND is what the procedure would be. SENATOR

LEE asked if continuing education will keep you competent to practice and eligible for licensure.

MS. BERG responded that ND does not require continuing education; simply belonging to the

national organization which provides current active information and journals. The board looks at individual cases and if they have been practicing in the last three years, they are eligible for licensure. SENATOR THANE: Do occupational therapists have specialties? MS. BERG: Yes, they are educated and working throughout the life span. There are specialty certifications in pediatrics, neuro-rehabilitation. Some people expand on education to go into hand therapy, and there is a certification process in that also. SENATOR KILZER: How many people are certified? MS. BERG: There are 390 - all practicing in ND. There are 9 people on the inactive list. SENATOR KILZER: Has there been any disciplinary actions? MS. BERG: We have never had a formal hearing. There have been resolutions with the person and there has been a suspension of license.

MELISSA NISTLER, student of Occupational Therapy, supports engrossed House Bill 1467 in written testimony.

GREG JUND, OTR/L, CHT, supports bill with written testimony. He presented additional testimony from NDSCS at Wahpeton, and UND Occupational Therapy Department. SENATOR DEMERS asked why should we have all these certifications in statute? Licensing should take care of that. SENATOR LEE: If certified and licensed you can use the OTR/L; if not you cannot use that.

No opposition.

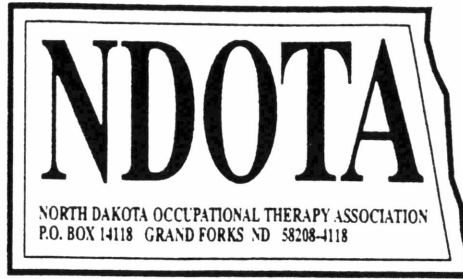
Hearing was closed on HB1467.

Discussion resumed on 3/16/99. Amendments were reviewed. Page 3, delete lines 19-21; page 7, line 11 remove equal and insert equivalent. SENATOR LEE moved the amendment.

SENATOR DEMERS seconded it. Roll call vote carried. SENATOR LEE moved DO PASS

Page 3
Senate Human Services Committee
Bill/Resolution Number HB1467
Hearing Date MARCH 15, 1999

AS AMENDED. SENATOR KILZER seconded. Roll call vote 6-0-0. SENATOR LEE will carry the bill.



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL 1467

Page 3, remove lines 19 through 21

Page 7, line 11, replace "equal" with "equivalent"

Renumber accordingly

Date: 3/16/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1467

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number Amendment

Action Taken _____

Motion Made By Sen Lee Seconded By Sen DeMers

| Senators | Yes | No | Senators | Yes | No |
|----------------------|-----|----|----------|-----|----|
| Senator Thane | ✓ | | | | |
| Senator Kilzer | ✓ | | | | |
| Senator Fischer | ✓ | | | | |
| Senator Lee | ✓ | | | | |
| Senator DeMers | ✓ | | | | |
| Senator Mutzenberger | ✓ | | | | |
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Total 6 (yes) 0 (no)

Absent 0

Floor Assignment _____

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

*Page 3 delete 19-21
Page 7, line 11 remove equal visit equivalent*

Date: 3/16/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1467

Senate HUMAN SERVICES COMMITTEE Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen Lee Seconded By Sen Kilzer

| Senators | Yes | No | Senators | Yes | No |
|----------------------|-----|----|----------|-----|----|
| Senator Thane | ✓ | | | | |
| Senator Kilzer | ✓ | | | | |
| Senator Fischer | ✓ | | | | |
| Senator Lee | ✓ | | | | |
| Senator DeMers | ✓ | | | | |
| Senator Mutzenberger | ✓ | | | | |
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Total 6 (yes) 0 (no)

Absent 0

Floor Assignment Sen Lee

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

REPORT OF STANDING COMMITTEE (410)
March 17, 1999 1:08 p.m.

Module No: SR-48-4986
Carrier: Lee
Insert LC: 98267.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1467, as engrossed: Human Services Committee (Sen. Thane, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1467
was placed on the Sixth order on the calendar.

Page 3, remove lines 19 through 21

Page 7, line 11, overstrike "equal" and insert immediately thereafter "equivalent"

Renumber accordingly

1999 TESTIMONY

HB 1467

HB 1467

Introduction

Representative Ken Svedjan, District 17

- Clarifies current practice language and removes outdated language
- Allows the Board to license certified individuals under more than one certifying body, should more than one exist - currently there is only one certifying entity
- Adds a definition of “occupational therapy student” to include “a person enrolled in an accredited occupational therapy education program.”
- Clarifies the use of Board licensed abbreviations
- Exempts from licensure a licensed individual working within the standards and ethics of that person’s profession
- Defines when an unlicensed or exempt individual may provide consulting, continuing education, and training services
- Requires applicant and licensee to adhere to the code of ethics adopted by the Board
- Provides that if the Board rejects an application, the Board must notify the applicant and explain the reasons for denial and that the applicant has a right to a hearing
- Provides that an individual with a limited permit may practice occupational therapy under supervision of a licensed occupational therapist
- Provides that the Board may impose a fee against a licensee to reimburse the Board for all or part of the cost of an administrative action resulting in disciplinary action

Other Testimony:

- ✓ Doug Bahr, legal counsel for the State Board of Occupational Therapy Practice, will explain HB 1467 sections
- ✓ Greg Jund with the North Dakota Occupational Therapy Association

TESTIMONY OF DOUGLAS A. BAHR

On

House Bill No. 1467

Madam Chairman, Members of the Committee, I am Douglas A. Bahr, an Assistant Attorney General and counsel to the North Dakota State Board of Occupational Therapy Practice. I am here today to give a summary of House Bill No. 1467 on behalf of the Board of Occupational Therapy Practice.

Section 1. Section 1 amends definitions as provided in N.D.C.C. § 43-40-01. The biggest amendment is to the definition of occupational therapy practice. The term occupational therapy practice is amended to more specifically identify the meaning of the term and to follow the definition used on a national basis.

Section 2. As currently written, section 43-40-02 authorizes licensed individuals to use the abbreviation "O.T.R." or "C.O.T.A." Section 2 amends N.D.C.C. § 43-40-02 to provide that those abbreviations may only be used if the individual is appropriately certified by the National Board of Certification for Occupational Therapy (NBCOT). This change is necessary because NBCOT has federally registered the certification marks "O.T.R." and "C.O.T.A.". Accordingly, those designations may only be used by individuals who are certified by NBCOT. Based upon the current law, a licensed individual not certified by NBCOT is likely to incorrectly believe he or she can use the abbreviations "O.T.R." or "C.O.T.A.".

Section 3. N.D.C.C. § 43-40-03 provides exemptions to the licensure requirements of chapter 43-40. Section 3 amends this section to clearly state that persons licensed by the state and working within the standards and ethics of that person's profession may perform services that constitute occupational therapy if the person does not represent to the public that the person is an occupational therapist or an occupational therapist assistant. N.D.C.C. § 43-40-03(3), which exempted occupational therapy students from the licensure requirement, is deleted. Regulation of occupational therapy students is addressed in section 13 of the Bill. Finally, this section amends N.D.C.C. § 42-40-03 to exempt from licensure individuals performing occupational therapy consultation, continuing education, in-service, or pre-service training in this state if certain conditions are met.

Section 4. This sections amends N.D.C.C. § 43-40-04 to delete the requirement that licensed members of the Board must be appointed from a list of names submitted by the North Dakota Occupational Therapy Association. Outdated language regarding the appointment of the original Board members and the length of their terms is also deleted. Language regarding closing Board meetings to approve examinations is also deleted because confidentiality of examination questions and procedures is addressed by N.D.C.C. § 44-04-18.8.

Section 5. N.D.C.C. § 43-40-08 addresses the requirements for licensure. Rather than stating an applicant must be of good moral character, the new language provides the applicant must be competent and demonstrate the applicant will adhere to the code of ethics adopted by the Board. References to the American Occupational Therapy Association (AOTA) are also deleted and replaced by references to “a national occupational therapy accrediting agency approved by the board.” This change serves two purposes. First, the name and function of accrediting associations change over time. This happened with the AOTA, which ceased doing certification when the NBCOT was created. Confusion is created by references in the law to organizations that do not exist or do not perform the function referenced in the law. Second, by referring to an accrediting agency approved by the Board, the Board can approve one or more accrediting agencies that establish appropriate accrediting criteria. This provides flexibility if the name or function of an accrediting agency changes or if more than one accrediting agency exists that establishes appropriate standards.

Section 6. N.D.C.C. § 43-40-10 addresses licensure of internationally trained applicants. Section 43-40-10 is amended to provide that internationally trained applicants must satisfy requirements equal to those contained in North Dakota law.

Section 7. Section 7 amends N.D.C.C. § 43-40-11, which concerns application for examination or licensure, to remove outdated language and specifically provide if an application is rejected, the Board must provide the applicant notice, state the reasons

for rejection, and explain the right to a hearing under chapter 28-32. It further provides that the applicant may request a hearing within 30 days.

Section 8. N.D.C.C. § 43-40-12 addresses waiver of requirements for licensure. This section is amended to remove outdated language.

Section 9. Section 9 provides amendments to clarify limited permits. N.D.C.C. § 43-40-13 provides that the Board may grant a limited permit to a person who has completed the education and experience requirements of this chapter. The amendments in section 9 require that the holder of a limited permit only practice under supervision of a North Dakota licensed occupational therapist. Limited permits are valid until the results of the examination and the Board's decision whether to issue or deny a license. The amendment provides that the holder of a limited permit must take the next available examination and that the permit expires if the holder fails to take the next available examination.

Section 10. Section 10 amends N.D.C.C. § 43-40-15 to delete language regarding granting an inactive status to a licensee.

Section 11. N.D.C.C. § 43-40-16 addresses disciplinary action against licensees. Section 11 amends N.D.C.C. § 43-40-16 to clarify when disciplinary action may be taken against a licensee. The amendments provide that unprofessional conduct

include violating the rules promulgated by the Board; a pattern of inappropriate practice; the use of any false, fraudulent, or deceptive statements in any document connected with the practice of occupational therapy; sexual abuse or exploitation related to the licensee's practice; or gross negligence in the practice of occupational therapy.

Section 12. N.D.C.C. § 43-40-18 is amended to provide that the Board may seek an injunction to restrain or enjoin violations of N.D.C.C. ch. 43-40.

Section 13. Section 13 creates a new section of law to address occupational therapy students and occupational therapy aides. It provides an occupational therapy student may perform occupational therapy services as part of a student's supervised course of study if the student is designated by a title that clearly indicates the student's status. It further provides that occupational therapy aides may assist in the practice of occupational therapy only under the direct supervision of an occupational therapist or occupational therapy assistants.

Section 14. Section 14 creates a new section to chapter 43-40 addressing complaints and investigations.

Section 15. Section 15 creates a new section of law addressing the costs of bringing disciplinary proceedings. If a disciplinary action results in the licensee being

disciplined, the Board may impose a fee against the licensee to reimburse the Board for all or part of the costs of the administrative action. The fee may only be imposed if the action results in disciplinary action, meaning the licensee has been found to be or have been involved in unprofessional conduct.

Section 16. Section 16 repeals N.D.C.C. § 43-40-09. N.D.C.C. § 43-40-09 is outdated language.

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Testimony of the
North Dakota Occupational Therapy Association
on
North Dakota House Bill 1467
(A bill relating to the practice of Occupational Therapy)

Presented by
Gregory R. Jund, OTR/L, CHT

Before the
56th Legislative Assembly of North Dakota
Committee on Human Services

January 26th, 1999

Madam Chairman and Members of this Committee:

My name is Gregory R. Jund. I am an occupational therapist. I also have the honor of serving as vice president of Legislation and Practice with the North Dakota Occupational Therapy Association. I am here today to voice our association's support for HB1467.

Our organization represents approximately 100 of the occupational therapists currently licensed to practice occupational therapy in North Dakota. We also have student members who are pursuing degrees in occupational therapy at colleges and universities in North Dakota.

As health care professionals, we provide services to thousands of individuals in North Dakota each year. These individuals may be disabled by illness, injury, psychological or developmental impairment.

We provide services in acute care, rehabilitation hospitals, nursing facilities, free standing clinics, psychiatric facilities, school systems, home health, industry and other settings.

The goal of occupational therapy is to provide quality treatment to individuals in order that they may achieve a maximum level of independent functioning in their everyday lives.

The North Dakota Occupational Therapy Association was formed to promote occupational therapy, and to advance the standards of practice and education in the field of occupational therapy, and to promote research and engage in other activities that currently or in the future may be considered advantageous to the profession and its members.

We are separate from the North Dakota State Board of Occupational Therapy Practice!

Simply stated our goal is to promote occupational therapy. The goal of the State Occupational Therapy Board is to protect consumers of occupational therapy services and guarantee competency of occupational therapists practicing in the state through a licensing mechanism.

Our association is extremely proud of the State Board of Occupational Therapy Practice, both current and past members.

Many of us as practitioners have watched the board and our profession mature over the years since members of the North Dakota Occupational Therapy Association first began to pursue the licensing of therapists back in 1981 and the eventual law 1st established in 1983. This board has been served by many great occupational therapists and lay persons

who have always strived to ensure the competency and quality of therapists that would choose to practice in our great state.

As the practice of occupational therapy has grown and matured over the years, the board has responsibly enlisted feedback from therapists and lay persons in the state as well as from our association to adopt rules that not only reflected the changes in the occupational therapy scope of practice but most importantly made appropriate rule changes that ensure the quality and safety of those consumers who would need our services.

This current revision of the occupational therapy practice act has been no different. Upon recognizing the need for revision, the board immediately set a course of action to assure that all parties, consumers and practitioners would be included in the drafting of this bill. As an association we were first notified in October 1997. Since that time the board has sought consults from other State Boards, the National Board on Certification of Occupational Therapists, the American Occupational Therapy Association, the Attorney Generals Office, and the North Dakota Occupational Therapy Association. They have sent questionnaires to practicing therapists and then spent countless hours reviewing, writing, amending, writing, amending, amending, and amending.

Finally after all this work and time they have laid before you a bill that does not seek to expand the practice of occupational therapy, but is a reflection of the current state and national scope of practice for occupational therapists.

By clearing away the outdated language and defining the current occupational therapy scope of practice, the board has laid the mortar and standards for which current and future occupational therapists will have to ascend if they are to be licensed in the great state of North Dakota.

Madam Chairman, members of this committee:

I can say without a doubt that the board in rewriting this practice act is assuring the highest level of protection for the consumers of North Dakota who will at sometime require the care and treatment of a highly competent Occupational Therapist.

Madam Chairman and Members of this committee:

On behalf of the North Dakota Occupational Therapy Association and future consumers of Occupational Therapy services, **I ask you to please support this bill and urge a DO PASS recommendation.**

Thank you for the opportunity to testify before you today. I will be happy to answer any questions the committee may have.

Occupational Therapy Fact Sheet

Occupational therapy is a health profession providing services to people whose lives have been disrupted by physical injury or illness, developmental problems, the aging process, or social and psychological difficulties. The goal of occupational therapy is to assist each individual in achieving an independent, productive, and satisfying life.

Who Can Benefit from Occupational Therapy?

People of any age whose ability to function in daily life has been affected by health problems, such as:

- arthritis
- stroke
- amputation
- hand injury
- birth defects
- mental retardation
- burns
- head injury
- spinal cord injury
- depression
- learning disability
- substance abuse

What Services Do Occupational Therapy Practitioners Provide?

Through evaluation and treatment, occupational therapy practitioners help people perform functional activities, such as:

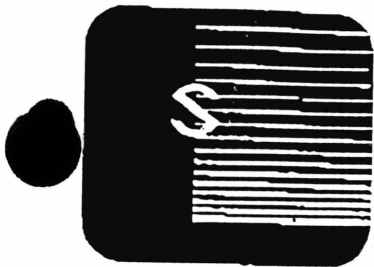
- caring for personal needs, such as bathing and dressing;
- participating in school, work, and leisure pursuits;
- performing household tasks, such as shopping and cooking;
- being involved in job tasks and participating in the community;
- developing coping skills to avoid substance abuse; and
- relearning use of an injured hand or limb.

Where is Occupational Therapy Available?

- hospitals
- nursing homes
- mental health centers
- home health agencies
- retirement communities
- public and private schools
- state institutions
- daycare programs
- private practices
- senior centers

What are the Professional Credentials of Occupational Therapy Practitioners?

Occupational therapists enter the profession with either a bachelor's or master's degree in occupational therapy. Occupational therapy assistants hold an associate degree. All occupational therapy practitioners take a national certification examination administered by the American Occupational Therapy Certification Board. Nearly all states, the District of Columbia, and Puerto Rico have laws regulating the practice of occupational therapy. (AOTA).



NDS-CS

North Dakota State College of Science
800 6th Street North • Wahpeton, ND 58076-0002
1-800-342-4325 • www.ndscs.nodak.edu

Occupational Therapy
Assistant Program

701-671-2981

Fax: 701-671-2570

E-mail: pwells@plains.nodak.edu

January 25, 1999

TO: Human Services Committee
56th North Dakota Legislative Session

Dear Madam Chairman and Members of the Committee:

The Occupational Therapy Assistant Program faculty have reviewed the draft of House Bill 1467 addressing Occupational Therapy Practice in North Dakota.

The faculty are in support of this bill and urge you to pass it.

Sincerely,

Carolita Mauer, OTR/L
Occupational Therapy Assistant Program
North Dakota State College of Science
Wahpeton, ND 58076

November 13, 1998

University of North Dakota
Occupational Therapy Department
Attn: Kathy Hanson, OTS
Hyslop Sports Center
Grand Forks, ND 58201

Dear Greg Jund,

We are students in the University of North Dakota School of Medicine and Health Sciences studying occupational therapy (OT). Enclosed is a packet of information that we have sent to people who hold legislative positions in the local, state and federal governments.

We are proud of our efforts and wanted to share our promoting occupational therapy project with you. Check us out on our web page, www.und.nodak.edu/org/otclub.

Sincerely,

Amy Einck, OTS
Diane Littlejohn, OTS
Mayfane Larne, OTS
Kathy Hanson, OTS
David Nelson



UNIVERSITY OF MARY
Division of Physical Therapy
and Occupational Therapy

7500 University Drive
Bismarck, ND 58504-9652
(701) 255-7500

To: Human Services Committee
56th North Dakota Legislative Session

From: Kathryn Perrin, PhD, OTR/L

A handwritten signature in cursive script, reading 'Kathryn Perrin', written over a horizontal line.

Director of Occupational Therapy

Date: January 26, 1999

Re: House Bill 1467

The faculty of the University of Mary Occupational Therapist Education Program have reviewed the draft of House Bill 1467 and to this end support the amendments to the North Dakota Practice Act. We collectively urge you to pass House Bill 1467. Thank you.

HB 1467

Introduction

Monday, March 15, 1999
Senate Human Services Committee

Representative Ken Svedjan, District 17, Grand Forks

- Clarifies current practice language and removes outdated language
- Allows the Board to license certified individuals under more than one certifying body, should more than one exist - currently there is only one certifying entity
- Adds a definition of “occupational therapy student” to include “a person enrolled in an accredited occupational therapy education program”
- Clarifies the use of Board licensed abbreviations
- Exempts from licensure a licensed individual working within the standards and ethics of that person’s profession
- Defines when an unlicensed or exempt individual may provide consulting, continuing education, and training services
- Requires applicant and licensee to adhere to the code of ethics adopted by the Board
- Provides that if the Board rejects an application, the Board must notify the applicant and explain the reasons for denial and that the applicant has a right to a hearing
- Provides that an individual with a limited permit may practice occupational therapy under supervision of a licensed occupational therapist
- Provides that the Board may impose a fee against persons regulated by the Board for all or part of the cost of an administrative action resulting in disciplinary action

Other Testimony:

- ✓ Doug Bahr, office of the Attorney General representing the State Board of Occupational Therapy Practice
- ✓ Greg Jund, North Dakota Occupational Therapy Association

Testimony of the
North Dakota Occupational Therapy Association
on
North Dakota House Bill 1467
(A bill relating to the practice of Occupational Therapy)

Presented by
Gregory R. Jund, OTR/L, CHT

Before the
56th Legislative Assembly of North Dakota
Senate Committee on Human Services

March 15th, 1999

Chairman Thane and Members of the Senate Human Services Committee:

My name is Gregory R. Jund. I am an occupational therapist. I also have the honor of serving as vice president of Legislation and Practice with the North Dakota Occupational Therapy Association. I am here today to voice our association's support for HB1467.

Our organization represents approximately 142 of the occupational therapists currently licensed to practice occupational therapy in North Dakota. We also have student members who are pursuing degrees in occupational therapy at colleges and universities in North Dakota.

As health care professionals, we provide services to thousands of individuals in North Dakota each year. These individuals may be disabled by illness, injury, psychological or developmental impairment.

We provide services in acute care, rehabilitation hospitals, nursing facilities, free standing clinics, psychiatric facilities, school systems, home health, industry and other settings.

The goal of occupational therapy is to provide quality treatment to individuals in order that they may achieve a maximum level of independent functioning in their everyday lives.

The North Dakota Occupational Therapy Association was formed to promote occupational therapy, and to advance the standards of practice and education in the field of occupational therapy, and to promote research and engage in other activities that currently or in the future may be considered advantageous to the profession and its members.

We are separate from the North Dakota State Board of Occupational Therapy Practice!

Simply stated our goal is to promote occupational therapy. The goal of the State Occupational Therapy Board is to protect consumers of occupational therapy services and guarantee competency of occupational therapists practicing in the state through a licensing mechanism.

Our association is extremely proud of the State Board of Occupational Therapy Practice, both current and past members.

Many of us as practitioners have watched the board and our profession mature over the years since members of the North Dakota Occupational Therapy Association first began to pursue the licensing of therapists back in 1981 and the eventual law 1st established in 1983. This board has been served by many great occupational therapists and lay persons

who have always strived to ensure the competency and quality of therapists that would choose to practice in our great state.

As the practice of occupational therapy has grown and matured over the years, the board has responsibly enlisted feedback from therapists and lay persons in the state as well as from our association to adopt rules that not only reflected the changes in the occupational therapy scope of practice but most importantly made appropriate rule changes that ensure the quality and safety of those consumers who would need our services.

This current revision of the occupational therapy practice act has been no different. Upon recognizing the need for revision, the board immediately set a course of action to assure that all parties, consumers and practitioners would be included in the drafting of this bill. As an association we were first notified in October 1997. Since that time the board has sought consults from other State Boards, the National Board on Certification of Occupational Therapists, the American Occupational Therapy Association, the Attorney Generals Office, and the North Dakota Occupational Therapy Association. They have sent questionnaires to practicing therapists and then spent countless hours reviewing, writing, amending, writing, amending, amending, and amending.

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By clearing away the outdated language and defining the current occupational therapy scope of practice, the board has laid the mortar and standards for which current and future occupational therapists will have to ascend if they are to be licensed in the great state of North Dakota.

The board in rewriting this practice act is assuring the highest level of protection for the consumers of North Dakota who will at sometime require the care and treatment of a highly competent Occupational Therapist.

Mr. Chairman and Members of this committee:

On behalf of the North Dakota Occupational Therapy Association and future consumers of Occupational Therapy services, **I ask you to please support this bill and urge a DO PASS recommendation.**

Thank you for the opportunity to testify before you today. I will be happy to answer any questions the committee may have.



UNIVERSITY OF MARY

Division of Physical Therapy
and Occupational Therapy

7500 University Drive
Bismarck, ND 58504-9652
(701) 255-7500

To: Chairman Thane & Senate Human Services Committee Members
56th North Dakota Legislative Session

From: Kathryn Perrin, PhD, OTR/L

Director of Occupational Therapy

Date: March 12, 1999

Re: House Bill 1467

The faculty of the University of Mary Occupational Therapist Education Program have reviewed the draft of House Bill 1467 and to this end support the amendments to the North Dakota Practice Act. We collectively urge you to pass House Bill 1467. Thank you.



UNIVERSITY OF MARY

Division of Physical Therapy
and Occupational Therapy

7500 University Drive
Bismarck, ND 58504-9652
(701) 255-7500

March 16, 1999

To: Mr. Chairman and Members of the Human Service Committee

My name is Melissa Nistler and I am a member of the junior occupational therapy class at the University of Mary. I am also representing University of Mary at the National Occupational Therapy Conference in Indianapolis, Indiana, April 14-18 as their American Student Committee of the Occupational Therapy Association Representative. I want to let the committee know that my fellow students and I are in support of the Engrossed House Bill #1467.

Sincerely,

Melissa Nistler

SENATE HUMAN SERVICES COMMITTEE

March 15, 1999

ENGROSSED HOUSE BILL 1467

Testimony of Douglas A. Bahr

Chairman Thane, Members of the Senate Human Services Committee, I am Doug Bahr, an Assistant Attorney General and counsel to the North Dakota State Board of Occupational Therapy Practice. I am here today to give a summary of Engrossed House Bill No. 1467 on behalf of the Board of Occupational Therapy Practice.

Section 1. Section 1 amends definitions as provided in N.D.C.C. § 43-40-01. The biggest amendment is to the definition of occupational therapy practice. The term occupational therapy practice is amended to more specifically identify the meaning of the term and to follow the definition used on a national basis.

Section 2. As currently written, section 43-40-02 authorizes licensed individuals to use the abbreviation "O.T.R." or "C.O.T.A." Section 2 amends N.D.C.C. § 43-40-02 to provide that those abbreviations may only be used if the individual is appropriately certified by the National Board of Certification for Occupational Therapy (NBCOT). This change is necessary because NBCOT has federally registered the certification marks "O.T.R." and "C.O.T.A.". Accordingly, those designations may only be used by individuals who are certified by NBCOT. Based upon the current law, a licensed individual not certified by NBCOT is likely to incorrectly believe he or she can use the abbreviations "O.T.R." or "C.O.T.A.".

Section 3. N.D.C.C. § 43-40-03 provides exemptions to the licensure requirements of chapter 43-40. Section 3 amends this section to clearly state that persons licensed by the state and working within the standards and ethics of that person's profession may perform services that constitute occupational therapy if the person does not represent to the public that the person is an occupational therapist or an occupational therapist assistant. N.D.C.C. § 43-40-03(3), which exempted occupational therapy students from the licensure requirement, is deleted. Regulation of occupational therapy students is addressed in section 13 of the Bill. Finally, this section amends N.D.C.C. § 42-40-03 to exempt from licensure individuals performing occupational therapy consultation, continuing education, in-service, or pre-service training in this state if certain conditions are met.

Section 4. This sections amends N.D.C.C. § 43-40-04 to delete the requirement that licensed members of the Board must be appointed from a list of names submitted by the North Dakota Occupational Therapy Association. Outdated language regarding the appointment of the original Board members and the length of their terms is also deleted. Language regarding closing Board meetings to approve examinations is also deleted because confidentiality of examination questions and procedures is addressed by N.D.C.C. § 44-04-18.8.

Section 5. N.D.C.C. § 43-40-08 addresses the requirements for licensure. Rather than stating an applicant must be of good moral character, the new language provides the applicant must be competent and demonstrate the applicant will adhere to the code of ethics adopted by the Board. References to the American Occupational Therapy Association (AOTA) are also deleted and replaced by references to “a national occupational therapy accrediting agency approved by the board.” This change serves two purposes. First, the name and function of accrediting associations change over time. This happened with the AOTA, which ceased doing certification when the NBCOT was created. Confusion is created by references in the law to organizations that do not exist or do not perform the function referenced in the law. Second, by referring to an accrediting agency approved by the Board, the Board can approve one or more accrediting agencies that establish appropriate accrediting criteria. This provides flexibility if the name or function of an accrediting agency changes or if more than one accrediting agency exists that establishes appropriate standards.

Section 6. N.D.C.C. § 43-40-10 addresses licensure of internationally trained applicants. Section 43-40-10 is amended to provide that internationally trained applicants must satisfy requirements equal to those contained in North Dakota law.

Section 7. Section 7 amends N.D.C.C. § 43-40-11, which concerns application for examination or licensure, to remove outdated language and specifically provide if an application is rejected, the Board must provide the applicant notice, state the reasons

for rejection, and explain the right to a hearing under chapter 28-32. It further provides that the applicant may request a hearing within 30 days.

Section 8. N.D.C.C. § 43-40-12 addresses waiver of requirements for licensure. This section is amended to remove outdated language.

Section 9. Section 9 provides amendments to clarify limited permits. N.D.C.C. § 43-40-13 provides that the Board may grant a limited permit to a person who has completed the education and experience requirements of this chapter. The amendments in section 9 require that the holder of a limited permit only practice under supervision of a North Dakota licensed occupational therapist. Limited permits are valid until the results of the examination and the Board's decision whether to issue or deny a license. The amendment provides that the holder of a limited permit must take the next available examination and that the permit expires if the holder fails to take the next available examination.

Section 10. Section 10 amends N.D.C.C. § 43-40-15 to delete language regarding granting an inactive status to a licensee.

Section 11. N.D.C.C. § 43-40-16 addresses disciplinary action against licensees. Section 11 amends N.D.C.C. § 43-40-16 to clarify when disciplinary action may be taken against a licensee. The amendments provide that unprofessional conduct

include violating the rules promulgated by the Board; a pattern of inappropriate practice; the use of any false, fraudulent, or deceptive statements in any document connected with the practice of occupational therapy; sexual abuse or exploitation related to the licensee's practice; or gross negligence in the practice of occupational therapy.

Section 12. N.D.C.C. § 43-40-18 is amended to provide that the Board may seek an injunction to restrain or enjoin violations of N.D.C.C. ch. 43-40.

Section 13. Section 13 creates a new section of law to address occupational therapy students and occupational therapy aides. It provides an occupational therapy student may perform occupational therapy services as part of a student's supervised course of study if the student is designated by a title that clearly indicates the student's status. It further provides that occupational therapy aides may assist in the practice of occupational therapy only under the direct supervision of an occupational therapist or occupational therapy assistants.

Section 14. Section 14 creates a new section to chapter 43-40 addressing complaints and investigations.

Section 15. Section 15 creates a new section of law addressing the costs of bringing disciplinary proceedings. If a disciplinary action results in the licensee being

disciplined, the Board may impose a fee against the licensee to reimburse the Board for all or part of the costs of the administrative action. The fee may only be imposed if the action results in disciplinary action, meaning the licensee has been found to be or have been involved in unprofessional conduct.

Section 16. Section 16 repeals N.D.C.C. § 43-40-09. N.D.C.C. § 43-40-09 is outdated language.

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