



## **Board Meeting Minutes – 11.12.2020**

### **ZOOM Meeting**

**1:30 p.m.**

**Mission Statement:** To protect the public and ensure compliance with the ND Century Code Chapter 43-44.

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Board Members Present: Linda Schloer, Brooke Fredrickson, Wendy Mankie, Shaundra Ziemann-Bolinske.

Board Member Absent: Nancy Overson

Present was Pat Anderson, NDBODP Executive Secretary, and Allyson Hicks, Assistant Attorney General, (1:30 – 3:30 p.m.)

**I. Call to Order**

Chair, Brooke Fredrickson called the meeting to order at 1:30 p.m.

**II. Procedure for Guests**

Brooke Fredrickson welcomed any guests and announced that an opportunity for public comment will be available during the meeting.

Guests Present: Sandra Horob, Pepin Tuma, Brittany McAllister, Kayla Effertz Kleven, Bri Srnski, Shandra Horob, and Pam Sharp

**III. Approval of Minutes from 10.26.2020**

Linda Schloer moved to approve the 10.26.2020 minutes as written; Shaundra Ziemann-Bolinske seconded the motion. Yeas: Brooke Fredrickson, Shaundra Ziemann-Bolinske, Wendy Mankie, and Linda Schloer. Nays: None. Passed.

**IV. Agenda Review**

Shaundra Ziemann-Bolinske moved to approve the agenda; Wendy Mankie seconded the motion. Yeas: Brooke Fredrickson, Shaundra Ziemann-Bolinske, Wendy Mankie, and Linda Schloer. Nays: None. Passed.

**V. Unfinished Business**

**a. Settlement Letter to Francie Berg**

Allyson Hicks has mailed the settlement letter and will get a copy of the letter to Pat Anderson. The letter is to be signed and returned by November 30, 2020 for the settlement agreement. Allyson advised to not send a license to her until we have the settlement agreement.

b. LN Application – Jennifer Unruh

Allyson Hicks advised that since the board is not able to approve her application that we send her a letter or an email that explains the issue with her application and explain her options which are to withdraw her application or the board will have to deny her a license, issue appellate rights and report her to the National Practitioner Database. The decision is Jennifer's on whether she would like to withdraw her application.

## **VI. Proposed Statute Changes**

### **Added another definitions:**

“Accreditation council for education in nutrition and dietetics” means the autonomous accrediting agency for education programs that prepares students to begin careers as registered dietitians or registered dietitian nutritionists.

The definition of foreign practitioner was updated to: Foreign practitioner means an individual who currently holds and maintains a license in good standing to engage in the practice of dietetics and nutrition 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.

Allyson asked whether practice of dietetics and nutrition could potentially limit someone from getting a license because they are only licensed to practice nutrition in another state. After discussing it was determined that since the definition of nutrition is broad enough it would cover both dietetics and nutrition.

Brooke stated that we have added a couple of definitions surrounding supervision and have added onsite and general nutrition. These are for the supervision requirements for students or individuals in their supervised experience that are not yet licensed. General supervision is for the supervision of non-MNT services and onsite supervision (to be immediately available) is because MNT has the highest risk of harm associated with it.

"General supervision" means the qualified supervisor is onsite and present where nutrition care services are provided or is immediately available to the individual being supervised by means of electronic communications and maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all nutrition care services rendered by an individual.

“Onsite supervision” means the qualified supervisor is onsite and present in the department or facility where nutrition care services are provided, is immediately available to the individual being supervised, and maintains continual involvement in the appropriate aspects of patient care, and has primary responsibility for all nutrition care services rendered by an individual.

Pat discussed that we need to also look at the academic training standards for ACEND that will allow to potentially allow for some telehealth and incorporate that into our training requirements.

15. “Medical nutrition therapy” means the provision of nutrition care services for the treatment or management of a disease or medical condition. Brittany McAllister had requested that we insert the word, intended, before treatment. Brooke and Pat don't recommend adding intended in this as someone may not intend to provide medical nutrition therapy and since it isn't subjective it doesn't mean that a person isn't providing medical nutrition therapy.

Medical weight control is still in the definitions and we have decided to keep nonmedical weight control. We added at the end of the nonmedical weight control definition, it includes weight control services for healthy population groups in order to achieve or maintain a healthy weight to add better clarification.

A new definition for qualified supervisor was added which is intended for the supervised experience.

27. Qualified supervisor” means,

- (i) When supervising the provision of medical nutrition therapy, an individual who is either:
  - a. A certified nutrition specialist or a registered dietitian nutritionist.
  - b. A licensed nutritionist who has met the education and experience qualifications under 43-44-07 a licensed dietitian nutritionist, or a licensed registered dietitian.
  - c. A health care provider licensed in any U.S. state or territory, including licensed dietitian nutritionists and licensed nutritionists, whose scope of practice includes the provision of nutrition care services for the purpose of treating or managing a disease or medical condition.
- (ii) A supervisor under this subparagraph shall be licensed in this state if supervising an applicant providing medical nutrition therapy to an individual in this state.
- (iii) When supervising the provision of nutrition care services that do not constitute medical nutrition therapy, an individual who either meets the requirements of [43-44-01-27(i)] or an individual with at least three years of clinical nutrition experience who holds a doctoral degree with a major course of study in dietetics, human nutrition, foods and nutrition, community nutrition, public health nutrition, naturopathic medicine, nutrition education, nutrition, nutrition science, clinical nutrition, applied clinical nutrition, nutrition counseling, nutrition and functional medicine, nutritional biochemistry, nutrition and integrative health, or an equivalent course of study.
- (iv) Supervisors who obtained their doctoral degree outside the United States and its territories must have their degrees validated by the Board as equivalent to the doctoral degree conferred by a U.S. regionally accredited college or university.

Telehealth means the delivery of services under this chapter by means other than in-person by using electronic communication, information technologies, or other means between a licensee in one location and a patient in another location, with or without an intervening health care provider. Telehealth includes direct interactive patient encounters, asynchronous store-and-forward technologies, and remote monitoring. It does not include the use of audio-only telephone, electronic mail, or facsimile transmissions.

The telehealth definition was changed to reflect another ND statute. Allyson asked why audio only is excluded as opposed to other electronic communications especially as what is the difference with audio at a computer vs. using the telephone. Essentially you are giving tools that are in a toolbox to directly access patients so I do not think you should make things prohibitive especially because this could be a provider choice thing. I do not think it is something that should be regulated by this board. I do not think you should restrict the tools, but you need to ask whether email and fax are adequate to do patient care. Allyson clarified that we do not need to use the language in the insurance statute. It was recommended by the board to remove the statement, it does not include the use of audio-only telephone, electronic mail, or facsimile transmissions. Allyson is comfortable with our definition of telehealth if the last sentence is removed. Allyson will send information from the P.T.s and

chiropractors for further review. Pat and Brooke will look further into this and come back with suggestions for a definition.

Allyson recommended that we add to our statute language for the board to hold closed sessions to review patient medical records, patient testimony and for other reasons as referenced in section 44-04-19.2.

#### **43-44-06. License required - Title - Abbreviations.**

A couple of additional words were added in 43-44-06: (underlined below)

1. Use of an earned, federally trademarked nutrition credential is not prohibited, but such use does not give the right to practice dietetics or nutrition, provide medical nutrition therapy or use the general titles of dietitian or nutritionist, unless an individual is licensed under this chapter. Notwithstanding any law to the contrary, all of the following are permissible:

- b. Use or allow a business entity or a business entity's employees, agents or representatives to use any of the following titles or abbreviations in association with a person's name:

#### **43-44-09. Grandfathering of Licensed Nutritionists**

1. An individual who meets the requirements for licensure and holds a license as a licensed nutritionist on the date of enactment of this chapter and is practicing or residing in this State on the effective date of July 31, 2021 shall be eligible to maintain and renew a license as a licensed nutritionist provided the applicant furnishes evidence satisfactory to the board that the applicant has met continuing education as required by the board.

Allyson approved this definition, and it protects anyone who currently has a license to have the ability to keep their license.

#### **43-44-11. Scope of Practice**

The CNSs asked that we add oral therapeutic diets may be ordered by either a licensed registered dietitian or a licensed nutritionist in this section so that is why it was added.

We added no. 6 in this section but we need to do further research in this area.

6. A licensed dietitian or licensed nutritionist may implement a protocol that does not reference a specific patient and results in a prescription of a legend drug that has been predetermined and delegated by a licensed practitioner in this state with prescription authority under Chapter 43 when caring for a patient whose condition falls within the protocol and the protocol specifies the circumstances under which the drug is to be prescribed or administered.

Do some dietitians adjust the insulin drip in the TPN? Wendy is not aware of this in ND but she thinks some dietitians do this in Minnesota.

#### **43-44-~~10~~12. Persons excepted from license requirement**

In exemption no. 2 we added onsite supervision since onsite supervision is involved for students or trainees providing MNT.

~~2. Any person pursuing a course of study in an approved program leading to a degree in the field of dietetics from an accredited college or university, if A student or trainee, working under the onsite supervision of a qualified supervisor while fulfilling an experience requirement or pursuing a course of study to meet the licensure requirements of section 43-44-07 or 43-44-10, for a time period of no more than five~~

years after the person completes the course requirements for licensure and the person is designated by a title which clearly indicates that person's status as a student or trainee.

### Exemption 3

Allyson will rework this exemption and send us revised language to reflect licensed in this state. State should not be capitalized.

3. Any person aiding the practice of medical nutrition therapy if the person works under the general supervision of a State licensed registered dietitian, State licensed nutritionist, or other State licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition.

### Exemptions 4, 5 and 6

Each of these had the language changed to providing nutrition care services for the purpose of managing a disease or medical condition in this state to keep the language consistent in them.

6. Any ~~person~~ foreign practitioner providing nutrition care services for the purpose of treating or managing a disease or medical condition in this state ~~which falls~~ if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and this title without obtaining a license if the services are provided in consultation with a person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the individual who is licensed by the board. ~~for more than ten days annually who has pending before the board an application for licensure as a licensed registered dietitian under this chapter.~~ Both the foreign practitioner and the individual licensed by the board are responsible for the services provided.

Pat asked Allyson if the last line of exemption no. 6 would be okay. Allyson said that this would be okay.

Exemption no. 10 has been updated to the following language. Allyson recommended to remove the word, from in line 1.

10. Any individual from providing nutrition information, individualized nutrition recommendations, health coaching, holistic and wellness education, guidance, motivation, behavior change management, non-medical weight control, or other nutrition care services provided they do not constitute medical nutrition therapy as defined in 43-44-01 provided that the individual does not hold himself or herself out as a licensed registered dietitian or licensed nutritionist or as a provider of medical nutrition therapy or otherwise violate provisions of this chapter.

It was discussed that coaches should not be giving nutrition or nutrition recommendations; a health coach is to help an individual accomplish whatever goals an individual sets out to do. The health coaches can provide nutrition guidance, but they cannot provide medical nutrition therapy.

Exemption no. 11 has been changed:

11. An individual providing medical weight control services for individuals with prediabetes or obesity:

- (i) under a program of instruction approved in writing by one of the following: a licensed registered dietitian or licensed nutritionist in this State; a dietitian nutritionist or nutritionist licensed in another State that has licensure requirements at least as stringent as the licensure requirements under this chapter, as determined by the board; a registered dietitian nutritionist; or a certified nutrition specialist; or

- (ii) as part of a plan of care overseen by a North Dakota licensed health care practitioner who is legally authorized to provide nutrition care services for the purpose of treatment or management of a disease or medical condition.

Allyson thinks that we have a very specific thought process and that this clarifies things to be able to provide statutory guidance. She recommended to take out, legally authorized and to, and to add after licensed health care practitioner who is acting within the scope of the individual's licensed profession.

#### **43-44-1214. Limited permits Provisional License**

We found in our research that someone who has not taken the exam should not be able to practice independently and that they should be working under a supervisor. We also don't want to permit a grandfathered LN to be qualified as the supervisor. The period whereby someone could apply for a provisional license is within the 5-year period after the completion of the academic and supervised practice requirements.

Applicants for a provisional license must file a written application with the board, submit any fees required by the board, be of good moral character and submit evidence of successful completion of the academic and supervised practice requirements during the five year period after completion of the academic and supervised practice requirements specified under subdivision a and b of subsection 1 of 43-44-07 or subdivision a of subsection 1 of section 43-44-10. A provisional license shall be available to an applicant with the applicant's initial application for examination and the applicant may practice only under the supervision of a North Dakota licensed registered dietitian or a North Dakota licensed nutritionist that meets requirements under subsection 1 of 43-44-07. A provisional license shall expire automatically upon receiving notice of failure of the licensure examination but may be renewed a maximum of one time until the date of the next examination, at which time it shall automatically expire and be surrendered to the Board.

Allyson affirmed that the statute conveys the intent that is desired.

#### **43-44-22 – Limited practice without a license**

Allyson recommended to change this section to:

Upon prior written application to the board, foreign practitioners practicing under this section or chapter 43-51 are subject to the regulatory and disciplinary provisions of 43-51-08 and may provide medical nutrition therapy or nutrition care services for the purpose of treating or managing a disease or medical condition in this state if the practitioner is acting within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board if the services are provided for no more than thirty full or partial days per year. The one-year period commences on the date the written application is approved by the board. An application from a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. The board may require payment of a fee of twenty-five dollars or other fee established by the board by administrative rule, not to exceed the higher of twenty-five dollars or one-tenth of the fee for an annual license from the board, as a condition of approving an

application under this section. Foreign practitioners are subject to the regulatory and disciplinary provisions of 43-51-08 and this chapter.

Pat brought forth the request from Brittany McAllister to change in the LN requirements that biochemistry also include, or equivalent, after it. An example would be that one of the popular schools for CNSs offers a course called functional medicine nutrition, but the course content is entirely biochemistry in content. By adding equivalent after biochemistry, it would allow the board to review the course information to determine and it wouldn't automatically close out an applicant if the course title wasn't biochemistry. Pat asked if we should add after biochemistry, or equivalent as approved by the board so it would be a board determination? Brittany said that from their perspective it would be fine that if we needed to specify that the reviewing of the equivalents would be a board determination. Allyson recommended that it must be in biochemistry, or an equivalent as approved by the board. Shaundra asked, what do we have to look at to determine whether it meets the requirements? The transcript may not have the term, biochemistry, so we have to dig deeper, what is that deeper? Brittany said that often it is reaching out to the school and requesting the syllabus and that is usually sufficient and if not ask for additional records.

### **Public Comment**

Guests were invited to provide comments and questions about supervision.

Brittany McAllister:

The definition on page 1 that was direct supervision has been changed to onsite supervision; from our perspective requiring onsite supervision in the practice act for any and all aspects of medical nutrition therapy for the supervised experience is not realistic. I think there are a lot of folks that may be doing inpatient medical nutrition therapy where a facility has someone onsite and that absolute makes sense and those facilities usually make those protocols to make sure someone is onsite and available. In the case of CNSs we practice, I believe 2 to 3 times the rate in the outpatient setting as typical dietitians so most of our practice is outpatient. And in those settings many CNSs are just providing verbal nutrition counseling including in the aspects of medical nutrition therapy and we don't think that is necessary to have someone physically next to them while they have that conversation with a patient including when that conversation may be happening via video chat even now so more than ever as Pat pointed out. We have a real issue with just the idea of onsite. The issue of continuous or immediate availability via electronic communications is one thing but requiring physical presence is another and that would exclude a large portion of our CNSs who are doing SPE without someone physically next to them. I know you made some changes to the language but we would still find that to be problematic in that physical presence is really the main issue; both an issue in counting the hours of supervised hours in order to get them licensed and also the training exemption that makes sure it is legal for someone to practice while they are doing that; so I think you have it in both places and we want to make sure that they are both able to legally do their supervised practice and have it count for licensure without having to have someone physically onsite. And along those lines we also want to discuss the concept of grandfathering in of any hours that someone may have already done if the requirements of a qualified supervisor or the idea of what supervision means would be more restrictive for what the requirements for supervision by BCNS are. This is mainly the overview of concerns we have, and I thank you for the opportunity to comment and would be happy to take any more questions.

Pat asked Brittany McAllister to explain how it works for someone to work independently without that supervisor immediately available. I would think there has got to be some crossover in those

consultations into MNT, so how do you assure there is appropriate treatment, appropriate nutrition care services going on? Brittany explained that outpatient can be a variety of settings but a lot of our CNSs have a private practice and have their full license, CNS credential and everything. So that is where most of our supervised practice experience happens as well; so, someone is not ordinarily physically present, but they are immediately available in most cases and that is how it typically works. If you are having a conversation with a patient that has type II diabetes and they are in a physical office and you are the supervisee and you are having that conversation and something comes up and you learn they are taking a new medication and not sure if this supplement or treatment may be right you may call your supervisor that is right there. But that doesn't mean the supervisor is right there. A lot of these people work out of their homes, it doesn't mean that a supervisor has driven to your house and sat physically next to you, which is what we read this new requirement as requiring.

Brooke said but when I read general supervision it means that they are onsite and present or immediately available to the individual being supervised by means of electronic communications and maintains continual involvement but the person that is supervising is actually responsible for all of the services rendered by the supervisee. So, we do have that, or, in there, so they don't have to be physically sufficient, so do you not see that as sufficient?

Brittany said if you scroll to page one there is direct supervision, and Brooke clarified that we took that out and now have onsite. Brittany said I think having these two definitions is fine, but now can I ask where you believe onsite is required. Brooke said that we have onsite supervision required for the supervision of anything that is MNT and anything that is non-MNT, general supervision would be sufficient. Because in the dietetics supervised practice, we have to have another licensed person actually sign off on all of our documentation in the clinical setting, so they are responsible for our work. Brittany said so that is basically in my opinion in just glancing at this right now I think it basically is the same as when you had direct supervision and just having different terminology. The issue is the idea of having to be onsite and present, you mean physically, then we still have an issue with that. Someone who is doing their SPE it is not uncommon for them to sit in; let's say we have a ZOOM session with a client and their supervisor at once, so they all three may be in different locations but all are watching what is happening in real time or they may be doing a consult and talking to their supervisor after before they deliver that nutrition care plan to the client. So, there are lots of instances whereby someone isn't physically on site in our supervision. And perhaps if your concern is related to that inpatient setting where you are doing that higher level of immediate nutritional delivery of some sort of a meal or whatever it may be that may be more appropriate and that is probably what happens a lot more in dietetics but we think that should be determined in the best case scenario left up to the facility if that is the issue. I am not aware of any states especially the recent ones that passed laws similar to yours that require onsite supervision for any aspect of care. Because medical nutrition therapy can mean I go to the nutritionist and I say I have diabetes and she gives me a low carb diet or whatever it may be and be that simple, it's not necessarily just something that could result in immediate harm that you would have to have someone physically present and next to them to tell me its okay. We do have a tracking tool on our website you can look at that everyone has to enter in all their hours and their supervisor rates them and assesses them and signs off at the end of the day or whatever it may be.

Pepin Tuma stated that in looking at how ND licenses other professions in the health care field and the supervision requirements that they each have and going through those various professions there is a spectrum of supervision that is required all the way from, for example dental hygienists, it's direct plus, it's in the room, its signing off on every authorization, its making every determination if



physically seeing the patient or client at the end of the process. There is direct supervision and then there is onsite supervision and general supervision. There are few; I could not find any health care professions that go below onsite, either direct or onsite supervision for the licensed activity. Brittany and I are pretty good at identifying exactly, maybe, the sweet spot of legislative language and I'm happy to keep working with her on it. I think from my perspective it is important to make sure that when someone is overseeing and actually supervising an individual, that who by the way, is unlicensed to practice, that it is an important thing to note, that individual cannot be delegated the provision of MNT in any state as an unlicensed individual as a licensed person is required to do it. So that individual needs some sort of a supervisor; that means the supervisor needs to be in charge of the patient and it needs to be taking charge of the responsibility of that patient. It means at the end notes are checked and ultimately that supervisor is licensed him or herself in ND if the patient is in ND. To the extent that there is not onsite supervision there are perhaps other options we can have there but this is sort of the lower end, a compromise already from the two higher direct levels of supervision, direct supervision and direct plus supervision that other professions have.

Pat said that I look at the aspect of the person that is supervising; look at the risk the supervisor is putting themselves at if they are not intimately involved in the whole process. I would think that would not be an ethical way of acting as the capacity of a supervisor.

Brooke said she thinks these definitions of the direct supervision that we originally had and the onsite were taken directly from the physical therapy statute definitions in ND on what they consider direct supervision and onsite supervision.

Brittany said that she would say that those professions would be more hands on in nature where some aspects of dietetics may be hands on but this is more of a counseling session on the outpatient side and so p.t for the most part may be now with Covid there may be a lot more physical therapists giving just advice on how to do a certain exercise rather than doing it in person. For the most part dental hygiene, p.t. and chiropractic are hands on, touching the patient applications but we still feel that being immediately available is intimately involved, we don't think having to drive to someone's house or office to sit next to them to see every client is a requirement or causes any harm. This doesn't remove their requirement that they would be legally responsible.

Allyson said that Pepin raised a good point; these are not licensed individuals; they are not fully qualified for a full license yet so the extent that they are doing something that could possibly cause great harm to a patient, I think a significant amount of supervision is necessary. However, this is not my field of practice so I will defer to those of you, and I wish Wendy was here to comment because she does work in a hospital setting. It is a liability, but to what extent of supervision that the board requires, that is going to be a policy decision made by you guys. But there is a certain amount of liability that is taken on when you let unlicensed people take on high risk practice without very close supervision. On the other side of the coin you do not want to make the supervision so onerous that nobody wants to serve as a supervisor, nobody wants to do it, it is too big of a pain and then you have a problem with being able to qualify people and get those supervised hours in. I can tell you it is a problem with the appraisal board as no one wants to be a supervisor; you are a liability; nobody wants to do it. So those are the two sides of the coin that I see. You don't want to make it so over restrictive that no one wants to do it but you also need to provide a significant amount of supervision in such that you are assured that the patients are safe.

Brittany said I am thinking about whole differently now as we talk about this. There is the concept of continuously available and the concept of real time availability especially if we are allowing a licensed person to deliver services in real time via telehealth. I am having trouble why you wouldn't think that also wouldn't be sufficient for the supervisor. I think there are levels to that but I think that is one additional consideration, do they have to be physically present or can they be virtually present? Especially right now with Covid, I am extremely quarantined myself, and if someone doesn't feel comfortable being physically present with someone until who knows when, would they still be able to have enough CE experience if they need to do MNT for their hours?

Allyson says I do want to point out, I understand that we are operating right now in the vacuum of Covid; but at some point, hopefully, eventually we will be out of the Covid bubble and these laws are still be in place. I don't know that it is appropriate, especially since you have a multi-year legislature and you can't go in in 6 months and change that. I would be cautious to create laws that specifically accommodate Covid. To the extent that is necessary we can always look at doing some sort of executive order or give a hardship exemption, something like that. But I do want to point out that these laws are on the books until they are changed. So, they are here for at least two years whether Covid is or not. So, my question is, in regular, non-quarantined time frames, is this something you want to allow virtual supervision for?

Pat said that she would like to know where ACEND is looking at that whole area because they are responsible for the accreditation of the dietetic programs. I really think what we consider we need to understand where ACEND is at.

Pepin said, I think that is a great point and I think it is helpful. I don't want to speak for ACEND, I have an idea, but I definitely want to make sure that they have the ability to put forth, they are much better at speaking on their behalf than I am. Pepin said that he would be willing to pull forth what they see as the crux requirements or core competencies for this aspect of it and share it with the board and with any other stakeholders that are interested.

Brooke said so we still need to get some clarification on this supervisor thing. Pat and Brooke thanked Brittany for her comments and putting forth the concerns that you have.

Pepin said there is another question Brittany has of whether there would be different standards of supervision for MNT vs. for non MNT and whether the supervisor should be the same and that becomes more of a big picture question that might be resolved once we have some of these other questions answered as well.

Bri Srnsky responded that she was curious as to what would be required in terms of supervision from the ACEND aspect and just thinking that just like Pepin said there are different levels specifically from coming from a hospital setting and working with the patients that I do, I would always want something to be onsite and so clarification I think has already been stated with those things.

Brooke summarized that we still need to work out the supervision thing; Pat added that we also need to work out the pharmacy question. Allyson asked about the cease and desist portion that was written into our law and she has questions yet about the board's authority and liability under that and some procedural questions. Brooke clarified that this has been taken out of the law.

### **c. Next Steps**

1. Filing - There are three options for us in filing the bill; 1) file the bill by Dec. 4 as an agency bill; 2) file as an agency bill by Dec. 4 with a legislator sponsor; or 3) do not file as an agency bill and have legislators file it and we do not have our name on it. Allyson clarified that it is us asking legislators and then the legislators file it. Allyson clarified that if we don't file it as an agency bill and have legislators file it, it is no longer your bill and you don't have control over it. There is a little bit of risk out there in doing that. Allyson did clarify that no one can come in and preemptively add an amendment until it is presented to the committee if it is an agency bill. If you file the bill as an agency bill and have a legislator sponsor, the sponsor can introduce the bill and shepherd it through the legislature. If someone submits an amendment there are going to be multiple chances to respond to those amendment. Amendments will be open records right away and you can get copies of them so you would be able to submit written correspondence to legislators who are on the committee and here is what is wrong with this and we would like to offer some sort of amendment.

Allyson explained the pros/cons of each option. The pros of submitting as an agency bill is that you have control of it so once you are done with writing it, you file it, you introduce in committee and you testify on behalf of it ; the cons are that no one has signed onto it and no one is submitting it on behalf of other legislators. If you have a legislator sign onto it and speak on your behalf; the con to that is that you have to find someone who likes the bill and that is work and also if you single out someone that you want, they may have problems with certain parts of the bill. Are you going to change it, or are you going to introduce it as an agency bill? The legislator can change something. The other con is that you will have to shop this around and that takes work. In regard to just having a legislator do it, once you give this bill to the legislator there is the potential that they could change or make amendments to the bill without notifying you. It becomes their bill and comes out of your hands. I would recommend that if you can do a legislator co-sponsor that is a good idea. If you don't have time to get one, it isn't a killer. If you do have a legislator co-sponsor the legislator has to sign the pre-file letter at the time you submit as an agency bill.

Shaundra said she prefers having a legislator be a sponsor. Brooke said that she had reached out to her legislator in her district to ask some questions and he actually was one that served in the House committee that heard the bill introduced during the last legislative session and he suggested some. I do think we have options and I think we are down to the timeline of what has to be done and what Pat needs to get in.

Allyson says that we need to approve the final language under 43-44; that requires board approval; after that Pat and I can work on getting the formatting done. Allyson really has her secretary do it and then there is an agency pre-file cover letter and you basically say what the bill is, and the board signs it. If you approve the draft of the bill; you can delegate for Pat or Brooke to sign it. Allyson will be responsible to draft what is created, this is what is amended, and what is repealed things; Vanessa puts it in the formatting to the correct numbering, strikes etc. After Allyson puts it in the correct format, she would like someone from the board to review it for the correct format. Allyson requested that if could hand this off to her as soon as possible; if we can approve it by the end of next week. We would not need to have the legislator yet. Pat

Shaundra asked, should Brooke go ahead and ask a legislator? Brooke said that we have a list of people to potentially sponsor; does that have to be a board decision? Do we just put feelers out there, see who is interested and then come back and decide; or do we have to vote on as a board on who we are going to contact? Allyson said that I do not think you have to vote as a board on who you are going to contact but if you come back with a list of legislators that are willing to sponsor, then that is a board decision. Can we send them a copy of the bill even though it is not finalized? Allyson said we could but send them a draft but I would specify that it is a draft and is subject to change. Shaundra asked, would it be difficult to invite them to our next meeting as we finalize this, would it be more difficult or what is your recommendation? Allyson said I don't think it would be more difficult, especially if a legislator has very specific ideas as about amendments, I don't think it is a bad idea for them to come. I have other boards that have legislators coming to have a dialogue about the bills at their meetings. I don't think it is a bad idea but they are also very busy right now, so you don't want to waste their time. Unless they have some type of substantive input, if they have agreed to sponsor it, they don't have to come to the board meeting. Brooke said that we could start reaching out, see who is interested and bring it back to the board. Shaundra said it looks like there is a primary legislator and so even if you have multiple there is a primary that signs on, right? Allyson stated yes; you can have multiple people do it, it just depends on how you want to do it, some like to have multi-party sponsors so one democratic, one republican, one bosteat person, it is up to you. You can have one, you can have none, it is up to you.

Shaundra said she has a couple of people in mind, how do we want to approach this? What do we share? Allyson recommended that our draft should not have all the comments on it, it should be a clean version. Should we just reach out and ask, are you interested in endorsing but don't share a draft at this point? If you guys are okay, I can reach out to Erin Oban, she is democratic and I know Bill Tveidt really well and he was interested in this the last time. If you are comfortable with that I can do the initial ask with just those two. Brooke you could do your reaching out too.

2. Flyer - Pat Anderson provided an information flyer for people to review and be prepared to provide comments at one of our next meetings. The messaging is so important so I would appreciate your input. Brooke asked everyone to look at it and get specific comments to Pat. Shaundra said she is so grateful that you did this Pat, I love it. I don't have specific comments as I just opened this and I am impressed and happy you took the time to do this. Pat asked, if we could share with the Academy to see what additional comments that Kayla might have on that. Brooke said sure.

Shaundra asked if we could ask Kayla if she has knowledge of legislators that she knows are good to work with. Brooke stated she is not certain we can do that. Shaundra said maybe for the record we could say we don't know procedure but Kayla be thinking about that and thank you for your time today.

Kayla Olson Effertz said that she would be more than happy to talk to any of the board members as far as process, in regards to sponsorship, in regards to allies, that is not at all out of your purview and in fact it is encouraged in many boards and associations to be working hand in hand to have less conflict down the road. It is our job to know who is champion and who is not, so I'd be happy to visit with anybody. Shaundra asked if it is on behalf of Amanda bringing forward who are our friends, maybe we can go that route.

- VII. Invoice for Payment** – Pat presented an invoice for \$595 for payment for work related to researching information for the statute. Yeas: Brooke Fredrickson, Shaundra Ziemann-Bolinske, Wendy Mankie, and Linda Schloer. Nays: None. Passed.

Pat didn't put any time on for the flyer as this wasn't a board approved project. It was recommended by Brooke and Shaundra to include this in a future invoice.

- VIII. Next Meeting** - November 16 from 9 – 11 a.m.  
Goal will be to vote on who we will ask as a primary sponsor at this meeting.

Kayla cautioned us to not go out and float the possibility of sponsoring. Once you float it, they assume they are on it and then if you say you don't want them, it creates hard feelings. One of the first questions that a legislator will ask is, who else is on the bill or are you asking me to be prime? She suggested that we start in the Senate and I would suggest that there are legislators who will gain traction faster than others so to be strategic on who you ask and in order; we are happy to provide some suggestions. Shaundra said we need that, however we do it, we need to do this. There is also nothing wrong with the board member when asking the legislator to have an association member a long side because one of the first questions is, do you have support of the association; so it is good to have that support. This makes this easier to get a yes. Sometimes a legislator will say well send me the bill and I will get back to you and others if there is high trust will say yes. Amanda said that what I am learning in all of this process so far, who you ask and where it starts should be strategic rather than, I just know this person and they said that they would. I am learning it needs to be a little more strategic on who has relationships with who and who is on what committee and do we think it could easily get through one place and get hung up somewhere else and all of that has been really been an interesting learning process so I would consider that as well.

Another meeting is tentatively set for either Thursday 11/9 evening (6 p.m.) or Friday 11/20 anytime in the morning.

**IX. Adjournment**

Shaundra Ziemann-Bolinske moved to adjourn the meeting; Linda Schloer seconded the motion. Yeas: Brooke Fredrickson, Beth Viland, Shaundra Ziemann-Bolinske, Wendy Mankie, and Linda Schloer. Nays: None. Passed. The meeting was adjourned at 4:02 p.m.

**Respectfully Submitted,**



**Pat Anderson, NDBODP Executive Secretary**