

Committee: House Health and Human Services

Tuesday, February 18, 2020 7:45 AM

Roll Call

Present: Rep. Borglum, Rep. Deutsch, Rep. Frye-Mueller, Rep. Milstead,
Rep. Miskimins, Rep. Perry, Rep. Rounds, Rep. Duba, Rep. St. John,
Rep. Healy, Rep. York, Rep. Wiese, and Rep. Kevin Jensen

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Representative Kevin Jensen

MOTION: TO APPROVE THE MINUTES OF THURSDAY, FEBRUARY 13TH

Moved by: Perry
Second by: Deutsch
Action: Prevailed by voice vote

THE CHAIR DEFERRED HB 1142 UNTIL THURSDAY, FEBRUARY 20TH 2020

MOTION: DO PASS HB 1133

Moved by: Frye-Mueller
Second by: Perry
Action: Prevailed by roll call vote (8-5-0-0)

Voting Yes: Borglum, Deutsch, Frye-Mueller, Perry, St. John, York, Wiese, and Kevin Jensen

Voting No: Milstead, Miskimins, Rounds, Duba, and Healy

MOTION: AMEND HB 1219

1219B

On page 1, line 1, of the Introduced bill, after "to " insert "require non-opioid alternatives to pain management"

On page 1, line 3, of the Introduced bill, after "Dakota:" insert "

Section 1. That a NEW SECTION be added:

34-20A-114. Pain management—Non-opioid alternatives—Exceptions.

Before a health care provider, acting within the scope of the provider's practice, may prescribe an opioid for the purpose of mitigating or alleviating a patient's pain, the provider shall recommend a non-opioid medication or an alternative treatment for pain management. For purposes of this section alternative treatments include acupuncture, chiropractic services, massage therapy, occupational therapy, physical therapy, and participation in a pain management program.

The restriction set forth in this section does not apply:

(1) To a provider who, using sound medical judgment, determines and documents in the patient's medical file that:

(a) Following or necessitated by a major physical trauma, illness, a surgical or other medical procedure, or a dental procedure, the patient's risk of adverse effects from pain outweighs the risk of opioid usage; or

- (b) The patient would receive the greatest benefit from a course of treatment that includes an opioid prescription, while simultaneously pursuing alternative treatments for pain management; or
- (2) In the case of a patient who is receiving:
 - (a) Treatment for cancer;
 - (b) Palliative care;
 - (c) Hospice care; or
 - (d) Treatment for an opioid use disorder.

Moved by: Rounds
 Second by: Wiese
 Action: Prevailed by voice vote

HB 1219 : require certain health care professionals to recommend treatments alternative to opioids.

Presented by: Representative Lee Qualm
 Proponents: Deb Mortenson, SD Chiroprator's Association
 Valerie Rowen, American Massage Therapy Association (Handout(s) 1)
 Opponents: Kim Malsam-Rysdon, Department of Health (Handout(s) 2)
 Tim Rave, SD Association of Healthcare Organizations
 Dean Krogman, SDMHA, Brookings, SD (Handout(s) 3)
 Deb Fischer-Clemens, Avera
 Paul Knecht, SD Dental Association
 Mitch Rave, Sanford Health

MOTION: DEFER HB 1219 TO THE 41ST LEGISLATIVE DAY

Moved by: Rounds
 Second by: Wiese
 Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DO PASS HB 1219 AS AMENDED

Moved by: Deutsch
 Second by: Frye-Mueller
 Action: Failed by roll call vote (3-10-0-0)

Voting Yes: Deutsch, Frye-Mueller, and St. John

Voting No: Borglum, Milstead, Miskimins, Perry, Rounds, Duba, Healy, York, Wiese, and Kevin Jensen

Revert to previous motion

MOTION: DEFER HB 1219 TO THE 41ST LEGISLATIVE DAY

Moved by: Rounds
 Second by: Milstead
 Action: Prevailed by roll call vote (10-3-0-0)

Voting Yes: Borglum, Milstead, Miskimins, Perry, Rounds, Duba, York, Healy, Wiese, and Kevin Jensen

Voting No: Deutsch, Frye-Mueller, and St. John

MOTION: AMEND HB 1064

1064B

On page 1, line 6, of the Introduced bill, after "tobacco" delete ", mint,"
On page 1, line 18, of the Introduced bill, after "product," delete the colon
On page 6, line 4, of the Introduced bill, delete "34-36-22" and insert " 34-46-22"
Moved by: Rounds
Second by: Deutsch
Action: Prevailed by voice vote

HB 1064 : restrict certain vapor products.

Presented by: Representative Carl Perry
Proponents: Deb Fischer-Clemens, Avera
Tim Rave, SD Association of Healthcare Organizations
Dean Krogman, SDMHA, Brookings, SD
Rob Munson, School Administrators of South Dakota
Opponents: Gregory Conley, self, New Jersey
Jordan Mason, Dakota Vaping Association and Vapor Technology Association
Doug Abraham, South Dakota Retailers Association
Jason Evans, Department of Revenue
David Benson, American Cancer Society Cancer Action Network
Andreas Unruh, self, Mitchell
Karn Elofson, self, Rapid City
Caleb Rose, self, Rapid City

MOTION: DEFER HB 1064 TO THE 41ST LEGISLATIVE DAY

Moved by: Borglum
Second by: Duba
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DO PASS HB 1064 AS AMENDED

Moved by: York
Second by: Miskimins
Action: Failed by roll call vote (5-8-0-0)

Voting Yes: Deutsch, Miskimins, Perry, York, and Wiese

Voting No: Borglum, Frye-Mueller, Milstead, Rounds, Duba, St. John, Healy, and Kevin Jensen

Revert to previous motion

MOTION: DEFER HB 1064 TO THE 41ST LEGISLATIVE DAY

Moved by: Borglum
Second by: Duba

Action: Prevailed by roll call vote (8-5-0-0)

Voting Yes: Borglum, Frye-Mueller, Milstead, Rounds, St. John, Duba, Healy, and Kevin Jensen

Voting No: Deutsch, Miskimins, Perry, York, and Wiese

MOTION: AMEND HB 1136

1136I

On page 1, line 2, of the Introduced bill, after "the " insert "Acupuncture Licensing Board and "
 On page 2, line 15, of the Introduced bill, after "service--Duties--Meetings." insert "There is hereby established the Acupuncture Licensing Board within the Department of Health. The board shall submit records, information, and reports in the form and as required by the secretary of health. The board shall report at least annually to the Department of Health.

"

On page 2, line 19, of the Introduced bill, after "to" insert ":

(1) "

On page 2, line 19, of the Introduced bill, delete "determine " and insert "Determine "

On page 2, line 21, of the Introduced bill, after "license" insert "; and

(2) Conduct any business that may properly come before the board"

On page 2, line 22, of the Introduced bill, after "year." insert "

At the expiration of a term, or if a vacancy occurs, the Governor shall appoint a new board member. The Governor may stagger the terms to enable the board to have different terms expire each year. The Governor may remove any member from the board for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct."

On page 2, line 23, of the Introduced bill, after "year." insert "

Section 3. That a NEW SECTION be added:

36-39-3. Officers of the board--Bond of secretary-treasurer.

The board shall organize annually by electing a president, vice-president, and secretary-treasurer. The secretary-treasurer of the board may be required to give a bond in any sum and with any conditions as the board directs.

"

On page 3, line 13, of the Introduced bill, after "means;" insert " and"

On page 3, line 15, of the Introduced bill, after "mobilization, " delete "manipulation, "

On page 3, line 16, of the Introduced bill, after "skin;" delete " and

(iii) Injection therapy including the injection of inert substances which include injectable saline, vitamin B12, and homeopathics for the purpose of the stimulation of acupuncture points, including painful trigger points. Injection therapy of any of the substances mentioned above is limited by training approved by the National Certification Commission for Acupuncture and Oriental Medicine and subject to federal regulation;"

On page 4, line 5, of the Introduced bill, delete "A chiropractor licensed under chapter 36-5" and insert " Any person otherwise licensed under title 36"

On page 4, line 5, of the Introduced bill, after "36-5;" insert " and"

On page 4, line 8, of the Introduced bill, after "year" delete "; and

(4) Any acupuncturist licensed to practice in another state or country may practice acupuncture in this state without a license if the acupuncturist is conducting treatment in relation to disaster relief for a period of time not to exceed three consecutive months"

On page 4, line 13, of the Introduced bill, after "months." insert "

Section 7. That a NEW SECTION be added:

36-39-7. Advertising or practicing without valid license--Violation as misdemeanor.

Any person who advertises, practices, or attempts to practice acupuncture or who uses the title, acupuncturist, or any other authorized title as provided in § 36-39-8 to induce any person to believe that the person is an acupuncturist without

having a valid license or renewal certificate is guilty of a Class 1 misdemeanor.

"

On page 4, line 16, of the Introduced bill, after "acupuncturist, " delete "doctor of acupuncture and Oriental medicine, "

On page 4, line 29, of the Introduced bill, after "a " delete "Diplomate of Chinese Herbology, "

On page 4, line 29, of the Introduced bill, after "Medicine" delete the comma

On page 5, line 4, of the Introduced bill, after "state" delete ", as well as any reported ethical or criminal disciplinary actions involving any applicant"

On page 5, line 8, of the Introduced bill, delete "36-39-11" and insert "36-39-13"

On page 5, line 11, of the Introduced bill, after "years, " insert "in the even-numbered years, "

On page 5, line 16, of the Introduced bill, delete "36-39-11" and insert "36-39-13"

On page 5, line 17, of the Introduced bill, delete "may " and insert "shall "

On page 5, line 17, of the Introduced bill, after "education " delete "or other proof of competency "

On page 5, line 20, of the Introduced bill, after "licensure." insert "

Each person licensed under this chapter who wants to renew the license shall obtain a renewal of license from the secretary-treasurer of the board on or before the thirty-first day of December of each odd-numbered year. The secretary-treasurer shall issue the renewal upon payment of the fee established in rules promulgated by the board under § 36-39-13. The renewal license shall be in the form of a receipt acknowledging payment of the required fee and signed by the secretary-treasurer."

On page 6, line 12, of the Introduced bill, delete "two " and insert "five "

On page 7, line 1, of the Introduced bill, after "collected." insert "

Section 16. That a NEW SECTION be added:

36-39-16. License signatures and seal--Display of license.

A license to practice acupuncture shall be signed by two members of the board and authenticated by the seal of the board. The license and renewal certificate shall be conspicuously displayed at the office of the practitioner.

"

On page 7, line 1, of the Introduced bill, after "collected." insert "

Section 17. That a NEW SECTION be added:

36-39-17. Grounds for license refusal or revocation--Promulgation of rules.

The board may, in compliance with chapter 1-26, refuse to grant a license to any person otherwise qualified, and may revoke the license of any acupuncturist who is not of good moral character; who solicits professional patronage by agents; who is guilty of unprofessional conduct, incompetency, habitual intoxication, the use of narcotics, fraud, or deception; who is convicted of a felony; or who practices contrary to the provisions of this chapter or the rules of the board. The board shall define by rule, pursuant to chapter 1-26, the grounds for refusing to license or for license revocation.

"

On page 7, line 1, of the Introduced bill, after "collected." insert "

Section 18. That a NEW SECTION be added:

36-39-18. Required state and federal criminal background check.

Each applicant for licensure shall submit to a state and federal criminal background investigation by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. Upon application, the board shall submit completed fingerprint cards to the Division of Criminal Investigation. Upon completion of the criminal background check, the Division of Criminal Investigation shall forward to the board all information obtained as a result of the criminal background check. This information shall be obtained prior to the permanent licensure of any applicant. The board may require a state and federal criminal background check for any licensee who is the subject of a disciplinary investigation by the board. Failure to submit to or cooperate with the criminal background investigation is grounds for denial of

an application or may result in revocation of a license. The applicant shall pay for any fees charged for the cost of fingerprinting or the criminal background investigation.

"

Moved by: Rounds
Second by: Perry
Action: Prevailed by voice vote

HB 1136 : provide for the licensure and regulation of practitioners of acupuncture and Oriental medicine and to establish the acupuncture regulation fund.

Presented by: Representative Tamara St. John
Proponents: Colleen Ragan self, Rapid City (Handout(s) 7)
Drea Miller, self, Rapid City
Dean Krogman, SD Medical Association
Deb Mortenson, SD Chiroprator's Association
Opponents: Justin Williams, Department of Health

MOTION: DO PASS HB 1136 AS AMENDED

Moved by: Deutsch
Second by: Frye-Mueller
Action: Prevailed by roll call vote (10-3-0-0)

Voting Yes: Borglum, Deutsch, Frye-Mueller, Milstead, Miskimins, Perry, Duba, St. John, Healy, and Wiese

Voting No: Rounds, York, and Kevin Jensen

HB 1141 : require a feasibility study and actuarial analysis on long-term care services and supports.

Presented by: Representative Ryan Cwach
Opponents: Larry Deiter, Department of Labor and Regulation

MOTION: DO PASS HB 1141

Moved by: Healy
Second by: Duba
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION: DEFER HB 1141 TO THE 41ST LEGISLATIVE DAY

Moved by: Deutsch
Second by: Miskimins
Action: Prevailed by roll call vote (7-5-1-0)

Voting Yes: Deutsch, Milstead, Miskimins, Perry, York, Wiese, and Kevin Jensen

Voting No: Borglum, Rounds, St. John, Duba, and Healy

Excused: Frye-Mueller

MOTION: ADJOURN

Moved by: Rounds

Second by: Deutsch

Action: Prevailed by voice vote

Pam Kean, Committee Secretary

/s/ KEVIN D. JENSEN
Kevin D. Jensen, Chair