

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0292

SENATE ENGROSSED NO. **SB 43** - 01/25/2001

Introduced by: The Committee on Commerce at the request of the Department of
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to establish within the State Board of Chiropractic
2 Examiners a disciplinary committee and an ethics committee and to authorize a fee for peer
3 review.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 36-5-19 be amended to read as follows:

6 36-5-19. The board of examiners may act as a peer review committee or may appoint other
7 licensed chiropractors to perform such function. No monetary liability on the part of, and no
8 cause of action for damages may arise against any member of a duly appointed peer review
9 committee comprised of chiropractors licensed to practice in this state, for any act or proceeding
10 undertaken or performed within the scope of the functions of such committee formed to maintain
11 the professional standards of the board of examiners as provided in rules promulgated by the
12 board pursuant to chapter 1-26, if the committee member acts without malice, has made a
13 reasonable effort to obtain the facts of the matter on which the member acts, and acts in
14 reasonable belief that the action taken is warranted by the facts as known by the member after
15 a reasonable effort to obtain facts. The provisions of this section do not affect the official

1 immunity of an officer or employee of a public corporation. The contested case provisions of
2 chapter 1-26 do not apply to activities of the peer review committee. All licensees shall, as a
3 condition of licensure, fully cooperate with and promptly respond to inquiries and requests from
4 the committee. The recommendations of the committee as to necessity for services of a licensee,
5 and as to reasonableness of charges and procedures shall be reported to the person who
6 requested the review and one member of the board of examiners as designated by the board. The
7 board may, by rules promulgated pursuant to chapter 1-26, establish a fee not to exceed seven
8 hundred fifty dollars to help defray the cost of the review. However, no patient of a licensee
9 requesting a peer review is subject to this fee.

10 Section 2. That chapter 36-5 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The board of examiners may act as a disciplinary committee or may appoint other
13 chiropractors licensed to practice in this state to perform such functions to maintain the
14 professional standards of the board. No monetary liability on the part of, and no cause of action
15 for damages may arise against any member of a duly appointed disciplinary committee for any
16 act or proceeding undertaken or performed within the scope of the functions of the committee,
17 if the committee member acts without malice, has made a reasonable effort to obtain the facts
18 of the matter on which the member acts, and acts in a reasonable effort to obtain the facts. The
19 provisions of this section do not affect the official immunity of an officer or employee of a public
20 corporation.

21 The board may promulgate rules pursuant to chapter 1-26 governing the administration and
22 enforcement of this section and the conduct of licensees, including:

- 23 (1) Purpose of disciplinary committee;
24 (2) Composition of the disciplinary committee;

(3) Qualifications of disciplinary committee;

(4) Procedure governing the conduct of investigations and hearings by the disciplinary committee.

Section 3. That chapter 36-5 be amended by adding thereto a NEW SECTION to read as follows:

The board of examiners may act as an ethics committee or may appoint other chiropractors licensed to practice in this state to perform such functions to maintain the professional standards of the board. No monetary liability on the part of, and no cause of action for damages may arise against any member of a duly appointed ethics committee for any act or proceeding undertaken or performed within the scope of the functions of the committee if the committee member acts without malice, has made a reasonable effort to obtain the facts of the matter on which the member acts, and acts in the reasonable belief that the action taken is warranted by the facts as known by the member after a reasonable effort to obtain the facts. The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

The board may promulgate rules pursuant to chapter 1-26 governing the administration and enforcement of this section and the conduct of licensees, including:

(1) Purpose of ethics committee;

(2) Composition of the ethics committee;

(3) Qualifications of ethics committee;

(4) Procedure governing the conduct of investigations and hearings by the ethics committee;

(5) Adoption of declaratory rules on ethical issues.