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HB1245: A Case Study Of The Process That Rescinded ND's Nursing Education Requirements

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HB1245: A CASE STUDY OF THE PROCESS THAT RESCINDED
ND'S NURSING EDUCATION REQUIREMENTS

By

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A Dissertation

Submitted to the Graduate Faculty

of the

University of North Dakota

in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

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2006

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This dissertation, submitted by Wanda Fisher Rose in partial fulfillment of the requirements for the Degree of Doctor of Philosophy from the University of ND, has been read by the Faculty Advisory Committee under whom the work has been done and is hereby approved.

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This dissertation meets the standards for appearance, conforms to the style and format requirements of the Graduate School of the University of ND, and is hereby approved.

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ABSTRACT

A case study approach was used to examine House Bill1245 (HB1245, 2003) introduced by the ND Nurses Association (NDNA) in the 2003 58th ND Legislative Session. The purpose of this study was to trace the events and debates that rescinded the nursing education for entry-into-practice that existed since 1987. The study was designed to answer the following questions: (a) What events prompted the introduction of House Bill1245? (b) Who were the key actors during the legislative process? (c) What was the understanding of HB1245 by nurses? (d)What factors influenced the outcome of HB1245? and, (e)Why did NDNA introduce HB1245?

Data were drawn from relevant documents, including minutes of meetings, memos, e-mails, letters, legislative testimony, and interviews from key-informants representing the ND Nurses Association (NDNA), ND Long-term Care Association (NDLTCA), College and University Nursing Education Administrators (CUNEA), ND Board of Nursing (NDBON) and key legislators. John Kindgon's multiple streams model provided an organizational tool for the refinement of gathered data and a base for data analysis.

Three major themes emerged: (a) the NDNA members did not understand the rationale for HB1245 and felt disenfranchised after fighting for 17 years to maintain

entry-into-practice, (b) tension and conflict occurred between the NDNA and NDBON resulting in the introduction of HB1245 by NDNA in response to the NDBON's action of changing the Nurse Practices Act (NPA) to allow a nurse licensed in another state without a baccalaureate degree to continue practicing in ND without ever obtaining a baccalaureate degree, and (c) the complexity and ever changing status of HB1245 making it very difficult for nurses and legislators to understand. The findings also revealed a lack of communication between NDNA Board of Directors and the NDNA membership.

Implications of this study demonstrates the need for the nursing profession to be aware of the political landscape before introducing legislation and to include the membership in major decision-making processes for any policy change to be effective.

CHAPTER I

INTRODUCTION

The words, "The Education of the Nurse" has long been a battle-cry, a signal to gird on one's armor and to sharpen one's weapons. It would be a pity, if after these many years of struggle, we were no longer willing to fight for the faith that is in us, but a still greater pity if we had not learned to fight with broader understanding and greater clarity. Our struggle is not against people but against wrong ideals, outworn traditions, and misinformation." Mary E. Gladwin, President of Minnesota League of Nursing Education, 1929, p. 269

On the 69th day of the 2003 ND Legislative Assembly, April 16, 2003 the daily calendar includes the conference committee report on Engrossed House Bill 1245 (HB1245) (2003), the second reading and final passage of HB1245 by the Senate before going to the Governor for his signature. Senators quietly assemble in the senate chamber. There is the usual buzz of activity as they greet each other, talk on the phone and converse with visitors and lobbyists waiting for the senate to convene. Lobbyists and visitors are standing along the wall and sitting on benches located behind the railing that separates the senate chamber from the public. Among the lobbyists are representatives from the ND Nurses Association (NDNA), ND Long-term Care Association (NDLTCA), and the ND Healthcare Association (NDHA) formerly known as the ND Hospital Association. Also present are staff from the ND Board of Nursing (NDBON). The bright red digital clock on the senate chamber wall displays 8:30 am. The President of the Senate, Lt. Governor Dalrymple, drops the gavel. The Senate convenes. There is a hush in the senate chamber as Pastor Steve Sathre from Bismarck Trinity Lutheran Church

offers the prayer. The roll is called; all members of the senate are present. Senate President Dalrymple declares a quorum and calls on Senator Judy Lee. Senator Judy Lee addresses the Senate, "Mr. President, I move the conference committee report on the Engrossed HB1245 as amended be adopted. The day before, on April, 15, 2003, the House passed Engrossed HB1245, by a vote of 60 yeas and 32 nays" (House Journal [HJ], 2003 p.1543). Now the President of the Senate, Lt. Governor Dalrymple calls for a voice vote on the motion before the Senate. The motion prevails on a voice vote. Engrossed HB1245, as amended, is placed on the fourteenth order, which is the second reading and final passage of a bill before the Senate. The President of the Senate calls for the second reading and final passage of amended HB1245. The President announces, "The key is open and senators may cast their vote." One by one, the senators cast their vote on HB1245. The board starts to light up, green lights (yeas) and red lights (nays). What will be the outcome? Are there enough red lights to "kill" the bill? Will there be more green lights to pass the bill? Everyone is silent as the final vote is tallied. The roll is called and the final vote is 26 yeas, 21 nays, 0 excused, 0 absent and not voting. (Senate Journal [SJ], 2003 p.1425). The Senate adopts the conference committee report and passes HB1245. HB1245 is on its way to the governor for his signature. After the final vote was tallied one informant reflected on the sadness and the conviction of many in the nursing profession, stating that, "It was a dark day for nursing in this state. It was an example of divide and conquer. It was so fractured and so disorganized!"

Professional nursing education has been one of the most hotly debated issues since the requirement of a four-year baccalaureate degree for licensure to practice as a registered nurse (RN) and a two-year associate degree for licensure to practice as a

licensed practical nurse (LPN) in ND. The passage of HB1245 by the ND 58th Legislative Assembly reduced the educational requirements for entry-into- nursing practice in ND. On January 1, 1987, ND became the first state to standardize educational requirements for two entry levels of nursing practice: the associate degree became the educational requirement for licensure to practice as an LPN and a baccalaureate degree became the educational requirement for licensure to practice as an RN. ND stood alone as the only state in the union to require a baccalaureate degree to enter into professional nursing practice. To date, no other state has been successful in adopting the baccalaureate degree requirement for entry-into-practice as an RN. Other state nursing organizations envied what occurred in ND and ND was seen as a model state for entry-into-practice. Maintaining these quality educational requirements did not come without an ongoing challenge from groups outside of organized nursing. During every ND legislative session from 1985 to 2001, except for 1993 and 1999, a bill was introduced to remove the baccalaureate degree requirement for entry-into-practice.

During each legislative session prior to 2003, the NDNA supported the NDBON standards for nursing education and defended the educational standards during each legislative session. Prior to 2003, the NDNA and the NDBON stood together and supported the baccalaureate degree as the educational standard for entry-into-practice.

ND Nurses Association

The NDNA, established in 1912, is the professional association serving registered nurses in ND. The NDNA mission is: To promote the professional development of nurses and enhance health care for all through nursing practice, nursing education, nursing research, and development of public policy. The NDNA purpose is: Work for the improvement of health standards and the availability of health care services, foster cooperation among nurses in ND, foster high standards of nursing, stimulate and promote the professional and educational advancement of nurses, and promote and protect the economic and general welfare of nurses. The NDNA functions include: Representing and speaking for the nursing profession in ND and promoting collaborative relationships with the other groups in ND that affect health care (NDNA Bylaws, 2004).

Any individual with an unencumbered license to practice as a registered nurse or who has completed a nursing education program and is qualified to take the registered nurse licensure as a first time writer is eligible for NDNA membership. All NDNA members have rights of membership in the American Nurses Association (ANA). All members participate in the election of NDNA officers, NDNA delegates to ANA House of Delegates, NDNA council leadership teams, NDNA government relations committee, and NDNA regional officers.

The NDNA board is composed of the President, Vice-President, Secretary-Treasurer, four regional Directors, and the chairs of the Government Relations Committee, Nursing Education Council, Nursing Practice Council, and Nursing Research Council. The NDNA Board has the authority delegated to it by the NDNA membership and the duty and power of acting for the membership in the intervals between meetings of

the NDNA membership. The Executive Committee of the Board of Directors consists of the NDNA President, Vice-President, and Secretary-Treasurer. The Executive Committee has all the power of the Board to transact emergency meetings between board meetings (NDNA Bylaws, 2004).

In 2001 NDNA approved bylaws that adopted a new organizational structure. The purpose of the new organizational structure was to promote more geographical representation on the governing board and to improve communication between the governing board and the membership by providing an avenue for the flow of information between the governing board and the members within each region through their regional representative on the board. The bylaws included a one member one vote concept. In the new structure, each member attending the annual meeting had a vote, rather than each local district sending delegates to the annual meeting based on one delegate for every 10 members. Approximately 400 licensed registered nurses in ND belong to NDNA.

ND Board of Nursing

The NDBON, established in 1915, regulates the practice of nursing and establishes nursing education standards. The Nurse Practices Act (NPA) (NDCC 43-12.1) provides for the establishment of a Board of Nursing, empowered with the responsibility and legal authority for ensuring that practitioners of nursing are competent to practice in ND, for the purpose of public protection of the citizens of this state. The NDBON consists of nine members appointed by the governor: five registered nurses, three licensed practical nurses, and one public member. Members are appointed for a term of four years and no board member may be appointed for more than two consecutive terms. The NDBON periodically reviews and approves nursing education programs. The

purpose of the review is to ensure that graduates of nursing education programs are prepared to provide safe and effective nursing care. The mission of the NDBON is to assure ND citizens quality nursing care through the regulation of standards for nursing education and licensure.

Overview

The purpose of this section is to give the reader a sense of the events that led up to the introduction of HB1245 by NDNA. Over time, several triggering factors caused NDNA to express concern over actions taken that affected entry-into-practice. These triggering factors were (a) the removal of the baccalaureate degree requirement for transitional licensure and replacement with a choice of either obtaining a degree or 30 continuing education units, (b) creation of a nurse licensure compact with other states, and (c) development of an online associate degree registered nurse pilot project called “Growing our Own.”

A non-baccalaureate degree RN licensed in another state after 1987 desiring to practice nursing in ND was issued a “transitional license” by the NDBON. To be re-licensed, the RN was required to demonstrate progression towards obtaining a baccalaureate degree. During the 2001 legislative session, Senate Bill 2114 (SB2114) (2001) was introduced at the request of NDBON. SB2114 passed successfully and amended the NPA by removing the baccalaureate degree requirement for re-licensure and replaced it with a choice of either obtaining a degree or 30 continuing education units. This meant nurses licensed in another state coming into ND without the required academic degree would never have to obtain a degree.

The introduction of House Bill 1150 (2001), at the request of the NDBON in the 2001 legislative session, created a nurse licensure compact with other states. A licensure compact allows a nurse to have one license in his or her state of residency and to practice in the other states who are part of the compact, subject to each state's practice act and regulations. Under a licensure compact, a nurse may practice across state lines unless otherwise restricted and practice in all other states that are members of the nurse licensure compact. The inclusion of ND in a compact with other states would allow a nurse licensed in another state without a baccalaureate degree to practice in ND without ever obtaining a baccalaureate degree.

In addition, an online associate degree registered nurse pilot project developed in 2002 called "Growing our Own" emerged. This program was designed to recruit employees already at work in rural communities that are interested in becoming a registered nurse. The "Growing our Own" pilot project was a partnership between the University of South Dakota (USD) and the Good Samaritan Society, the nation's largest not-for-profit long-term care organization. The partners received Congressional funding and approval to plan, develop, and deliver a two-year associate degree registered nursing program in six northern plains states, including ND. Fifteen Good Samaritan long-term care facilities in ND generated interest from 53 individuals interested in pursuing nursing education through this program. The USD and the Good Samaritan Society requested approval from the NDBON to allow students enrolled in the on-line associate degree registered nurse program the ability to obtain the necessary clinical experience in ND. The NDBON denied the clinical experiences in ND because by rule the NDBON did not approve associate degree registered nurse programs in ND (NDBON, 2002, September

19-20). The NDLTCA expressed concern over the denial of the clinical experience by the NDBON and wanted to know what could be done to allow students to participate in clinical experience in ND. The NDBON expressed the only way the board could approve clinical experience for students enrolled in an on-line associate degree registered nurse program would be to introduce legislation to amend the NPA to allow approval of associate degree RN programs in the state (NDNA, 2002, October 7 Memo on Rational for Legislative Action).

The NDNA Board of Directors viewed these factors to be eroding the educational standards for entry into professional practice as adopted in 1987. The NDNA Board felt they could no longer continue to support recommendations made by the NDBON (NDNA, 2002, October 8 Teleconference minutes). By all accounts, tension began to mount between NDNA and the NDBON over who had the right to set educational standards for nursing.

Other factors challenging the baccalaureate degree for entry-into-practice, included: (a) a survey conducted in June 2002 by the NDLTCA, (b) the waning support of legislators to maintain a baccalaureate degree for entry into professional practice, and (c) ND being the only state requiring baccalaureate degree for entry-into-practice.

In June 2002, the NDLTCA surveyed their members on whether they should take a position (for or against) entry-into-practice for nurses (see Appendix A for NDLTCA survey). While fewer than half of the state's nursing home administrators responded to the survey, those who did overwhelmingly favored overturning the state's current educational requirements for entry-into-practice. In response to the survey conducted by the NDLTCA, NDNA posted the following on October 21, 2002 on the NDNA web site

([http://www.NDNurses Association.org/](http://www.NDNursesAssociation.org/)) “This was the third time Ms. Peterson, NDLTCA President, has raised this issue to state legislators citing what she claimed as the need to ease the nursing shortage in rural ND.”

With entry-into-practice being debated in seven of the ND legislative sessions since 1985, the patience of legislators was beginning to wane. Some legislators indicated they were burned-out dealing with the entry-into-practice issue during every legislative session. One legislator invited to present on a panel at the 2002 NDNA annual convention asserted, “...legislators are extremely tired of dealing with nurses on this issue [entry-into-practice]... [nurses] need to come together, you need to solve this problem because the legislators are very tired of dealing with [entry-into-practice].” Legislators also expressed it was becoming more difficult to maintain the educational standards because no other state followed ND and there was no evidence to suggest other states were moving toward baccalaureate entry level for registered nurses.

NDNA’s Reaction to Triggering Factors

After the NDNA’s annual convention the NDNA executive committee met on October 7, 2002 to respond to the triggering factors and the potential introduction of legislation by NDLTCA in the 2003 legislative session. The NDNA executive committee developed a plan to move the debate regarding educational standards out of the legislative arena (NDNA teleconference, October 8, 2002). The executive committee recommended to the NDNA board of directors on October 8, 2002 “that consideration be given to developing a legislative strategy that would move nursing education requirements outside (underlined for emphasis) of the legislative arena” (Moos, n.d.). NDNA expressed that the educational standards were jeopardized when the NDBON

requested a change to the NPA during the 2001 legislative session to allow nurses coming into ND, who graduated from a nursing program after 1987 without a baccalaureate degree, to bypass the educational requirements by obtaining continuing education to maintain their license rather than “upgrade” to the appropriate academic degree. Members of the NDNA executive committee questioned, “What else can nursing education afford to lose?” As the executive committee debated strategies to protect nursing education standards, they identified it was important that, nursing education remains in higher education settings and credits allowed to transfer among nursing programs. The NDNA executive committee expressed the need to be proactive to protect nursing education and began drafting a bill to amend the NPA (NDCC 43-12). The focus of the bill draft was to remove the authority of the NDBON to approve nursing education programs and require that the NDBON accept for licensure graduates of programs accredited nationally or approved by the ND State Board of Higher Education (NDSBHE).(NDNA, 2003, January).

Creation of House Bill 1245

On December 5, 2002 the NDNA Board of Directors drafted the following amendments to the Nurse Practices Act (NPA) (NDCC 43-12): (a) remove the regulation of nursing programs from the NDBON and place the regulation of the nursing programs under the board of higher education, (b) remove the educational requirement definitions for a “licensed practical nurse” and a “registered nurse” from the Nurse Practices Act, and (c) accept for licensure graduates of nursing education programs approved by the state board of higher education or programs accredited by national nursing accreditation

programs which are in academic settings and offer transferable credit (NDNA, 2002, December 5 Meeting Summary).

On December 19, 2002, during the NDNA Board of Directors teleconference, Macdonald made a motion to submit legislation to remove the board of nursing approval of nursing education programs from and require that the board of nursing accept for licensure graduates of programs accredited nationally or approved by the board of higher education. Weston seconded the motion (NDNA, 2002, December 19, Teleconference minutes). Discussion ensued with the NDNA Board members on the pros and cons of the introduction of legislation. After much discussion and a call for the question, the vote on the motion was eight yeas and five nays. The motion carried. The NDNA board emphasized the need to meet with NDBON, College and University Nursing Education Administrators (CUNEA), the NDLTCA, the ND Organization of Nurse Executives (NDONE), and other specialty nursing groups belonging to a group recognized as Nursing Organization Liaison Forum (NOLF). Potential sponsors for the legislation was also considered (NDNA, 2002, December 19, Teleconference minutes).

On January 10, 2003, HB1245 (see Appendix B for HB1245 as introduced) was introduced at the request of the NDNA into ND's 58th Legislative Assembly. Representative George Keiser (R 47) from Bismarck was the prime sponsor of the bill. Representative Keiser (R 47) was considered a friend of nurses and had received endorsement by NDNA's Political Action Committee (PAC). The NDNA identified five additional legislators willing to co-sponsor the bill, two representatives and three senators. Representatives included Representative Wm.Devlin (R 23), Finley, ND, and Representative Todd Porter (R 34), Mandan, ND. Senators included Senator Jerry Klein

(R 14), Fessenden, ND, Karen Krebsbach (R 40), Minot, ND, and David O'Connell (D 6), Lansford, ND.

On July 3, 2002 Representative Devlin received \$1000 from the NDLTCA-PAC for his 2002 legislative campaign (ND Secretary of State, 2002). He also was the 2001 Distinguished Service Award Recipient from the ND Long-term Care Association (Lawmakers, 2005). Senator O'Connell was one of the original sponsors of HB1460 (1985), introduced in the 1985 ND legislative session, a bill that called for removing the power of the NDBON to set educational standards. Senator O'Connell also co-sponsored SB 2304 (1997), a bill introduced in the 1997 legislative session to remove the baccalaureate educational requirement for a registered nurse from the ND NPA.

The first hearing on HB1245 occurred on January 22, 2003, in the House Human Services Committee. After weeks of debate, multiple amendments, and multiple conference committee meetings, HB1245 was passed by the House with a vote of 60 to 32 (HJ p.1543) and by the Senate with a vote of 26-21 (SJ p.1425). On April 17, 2003, Governor John Hoeven signed HB1245 into law (HJ p.1561). The final passage of HB1245 by the ND 58th 2003 Legislative Assembly eliminated the baccalaureate degree requirement for entry-into-practice as an RN, and the associate degree for entry as an LPN, and created multiple levels of education for entry-into-practice. HB1245 succeeded at removal of the baccalaureate degree requirement when previous attempts failed.

Researcher's Reflection on Study

I have been a registered nurse since 1969. I graduated from ND's first associate degree registered nurse program at Dickinson State University (DSU) formerly, Dickinson State College. After graduation from high school, I initially applied to attend a

private four-year baccalaureate-nursing program in the state. However, the summer of 1967 I learned about the new associate degree-nursing program starting at DSU. The college was located 60 miles from home and my wise father said, "Wanda, you can go to college, be close to home, and become a registered nurse in two years rather than four years. Plus, you can start making a salary after two years of college". My father was correct.

In the fall of 1967 I enrolled in the first associate degree-nursing program at DSU. No one I knew could tell me the difference between a two and a four-year nursing program. Nor did I know the questions to ask at the time. Sometime during the first year in the nursing program my professor, Irene Sage, gave each person in the nursing program a booklet titled "*Educational Preparation for Nurse Practitioners and Assistants of Nurses: A Position Paper*" (1965). I recall reading it and underlining everything that stated an associate degree prepared nurse was considered a "technical nurse" and a baccalaureate degree prepared nurse was a "professional nurse." This was of great concern to me, and I recall asking Mrs. Sage what this meant. She indicated to me that as an associate degree nurse I would be a good bedside nurse. While this was somewhat comforting to me because I wanted to care for people, I still had questions. What was the difference?

After I graduated and began practicing, I realized "something" was missing. I could not put my finger on it, but I knew some of the nurses I worked with who had a baccalaureate degree made decisions differently. I also was passed over for some leadership positions because I did not have a baccalaureate degree. Within four years of receiving my associate degree, I returned to obtain my baccalaureate degree in nursing.

During this educational process, I was introduced to new ways of thinking and nurses who discussed the profession in a way I had not been exposed to before. I recall having long dialogues with a colleague and a dear friend, Sharon Lambeth, about critical thinking.

During this time, I became more involved in the NDNA. I had joined NDNA in 1971 but was not actively involved. I attended my first national ANA convention in June of 1978 when the ANA's House of Delegates adopted a resolution that by 1985 the minimum preparation for entry-into-practice be the baccalaureate in nursing. This was the start of my interest with the entry-into-practice issue.

Next, I attended the 1978 annual NDNA convention where a resolution was brought forth by the NDNA House of Delegates charging the NDNA Council on Education to study the issue of requiring a baccalaureate degree for entry-into-nursing-practice. Since 1978, I was involved in the entry-into-practice issue in ND: I lobbied for NDNA on the entry-into- practice issue during the 1985, and 1987, legislative session and I served on the NDNA Board of Directors from 1983 to 1986. I believed in entry-into-practice and supported the efforts of the NDNA.

In 2002, when I learned the NDNA Board of Directors was discussing changes to the NPA that appeared to lower the educational standards for entry-into-practice I became concerned. I attended the October 25, 2002, Nursing Organization Liaison Forum (NOLF) meeting of nursing specialty groups in Fargo, ND. Mary Smith, the current NDNA President discussed how for years the NDNA defended and supported the state's nursing education requirement, but NDNA and nursing needed to begin to think outside of the box and to explore a different strategy because it was becoming to difficult to

continue to defend entry into practice. I listened to the discussion during the meeting about “maintaining transferable college credits” and removing the oversight of nursing education requirements from the NDBON. While leaving the meeting not fully understanding what strategy NDNA was taking, I did know there was discussion about a bill being introduced. It was not until HB1245 was filed with the ND Legislative Council that I read the bill in its entirety. My first response was, the NDNA is eliminating the educational requirements for nursing of which the NDNA has worked very hard . I questioned, “Why, after defending and supporting the baccalaureate degree requirement for 17 years is NDNA lowering the educational standards for professional nursing?” This question prompted me to study the debate over HB1245.

Need for the Study

For almost a century, the NDNA supported advancement in the educational standards for nurses. In 1912, the NDNA was created to standardize nursing education. A major goal of the association was to regulate nursing. From 1912 to 1915 the newly organized nurses association worked to obtain legislation to create the Board of Nurse Examiners to regulate nursing education and nursing practice. In 1915, the ND Legislative Assembly approved the creation of the ND Board of Nurse Examiners, the forerunner of the NDBON. Sixty-three years later the NDNA mobilized another effort to standardize nursing education. During the 1978 annual NDNA convention, a resolution was brought forth by the ND State Nurses Association (NDSNA) (name changed to NDNA) House of Delegates charging the NDSNA Council on Education to study the issue of requiring a baccalaureate degree for entry-into-nursing-practice. The resolution included studying the ramifications for nursing service, nursing education, as well as for

individual nurses in ND (ND State Nurses Association [NDSNA], 1978). The NDNA supported the resolution and began mobilizing nurses across the state to support the baccalaureate degree for entry-into-practice.

From 1978 to 1985, the NDNA developed and implemented a plan to require a baccalaureate degree for entry-into-practice and an associate degree for a licensed practical nurse. During this time the NDNA involved other nursing organizations and healthcare groups across the state in the decision making process before the final decision to change the educational requirements for entry-into-practice occurred. These major changes, affecting nursing education and practice occurred over time with input from nursing and other healthcare groups, unlike the major changes to the NPA proposed by the NDNA in 2003.

By all accounts, the events between October 7, 2002, and April 17, 2003, unfolded at a blinding pace. The questions asked by many nurses were “Why did NDNA introduce HB1245?” and “What happened during the 2003 legislative session?” One nurse informant admitted, “the time frame was very, very short to try to get the information to people.” Another nurse informant said,

The actual bill, (pauses) it was probably over Christmas (2002) when the language of the bill was formulated. So, the actual language was not shared, but we had decided to (pauses) OK, we’re going to go forward, we’re going to do something different here and try to get it [entry-into-practice] out of the legislative arena and let nurses make the decision.

Sister Mariah Dietz, University of Mary Nursing Program Chair, Bismarck, ND expressed in testimony before the House Human Services Committee the speed at which HB1245 developed.

I learned about the possibility of HB1245 on October 15, 2002. On December 19, 2002 the NDNA passed the resolution to initiate the bill. Today, just a little, more than a month after it left the NDNA Board it is before you.... I feel a bit like I'm being rushed along with a famous, or infamous, windstorm. And I don't like the feeling. I don't need forever to make up my mind but enough time to consider all the ramifications. And this bill is fraught with ramifications. Decisions of this magnitude must be well thought out (Dietz, 2003).

On January 10, 2003, HB1245 was read in the ND House of Representatives. The first hearing on HB1245 occurred January 22, 2003 before the House Human Services Committee. When considering the major changes to the NPA , the social and political implications of the changes to the nursing profession and the speed at which HB1245 was drafted and brought before the ND 58th Legislative Assembly makes it imperative to study.

Significance

Understanding how and why conditions become defined as public problems is key to understanding how an issue reaches the policy agenda (Kingdon, 1995; Stone 2002; Jones 1994; Anderson, 2000). Defining a problem provides the context through which current conditions are perceived to be in conflict with treasured social values. It is important to understand how nursing education requirements became defined as a public problem. The process of getting a problem to the attention of government often is the first step in finding an answer to the question of how does a problem get on the government agenda. I anticipated that the findings may be used to understand the importance of knowing the political climate when introducing legislation and will help the nursing profession when planning future policy decisions. In addition, a hope is that nurses across the state will recognize the importance of participating in the political process as it affects their profession.

Purpose and Theoretical Framework

The purpose of this study is to trace the events and debates during the 2003 58th ND Legislative Assembly that created changes to the NPA (NDCC 43-12.1) that resulted in lowering the nursing education requirements. The events leading to and the debates that culminated with the passage of this legislation mark a specific point in nursing history in ND and it requires close examination. The study also allows for insight into the decisions of the NDNA Board of Directors and the reasons for their introduction of HB1245. In addition, this study answers the following questions:

1. What events prompted the introduction of House Bill 1245?
2. Who were the key actors during the legislative process?
3. What was the understanding of HB1245 by nurses?
4. What factors influenced the outcome of HB1245?
5. Why did NDNA introduce HB1245?

These questions were influential in guiding this study with John Kingdon's (1995) multiple policy streams model providing an overarching framework. Kingdon created the multiple policy streams model to understand structures and patterns in governmental agenda-setting which transforms social problems into political issues for governmental action before the adoption of a new policy. The model allows distinctions to be made among problems, politics, and policy alternatives. Kingdon's model provided a tool to break apart intertwined information related to problems, legislative debate, and content. It also explores how participants worked to bring the issues to the agenda and to achieve implementation.

Design of the Study

This study will examine the agenda-setting process used in the 2003 ND 58th Legislative Session to amend the NPA using an exploratory case study method. As described by Yin (1989), exploratory case study research should make use of a conceptual framework to delineate the priorities to be explored. Kingdon's multiple streams model provided a logical base for data analysis and an organizational tool for the refinement of gathered data.

According to Stake (1995), "the case is a specific, complex, functioning thing" (p.2). "We are interested in it, not because by studying it we learn about other cases or about some general problem, but because we need to learn about that particular case" (p.3). This case study of HB1245 is undertaken to have a better understanding of the case-nothing more or nothing less. Passage of HB1245 succeeded where other attempts at changing nursing education requirements had failed. The events and debates that culminated with the passage of HB1245 mark a specific point in nursing history and require close examination.

Because of the historical nature of this study, document review was a primary method of data collection. Governmental documents and records were of major importance as were the formal and informal records of the NDNA and the NDBON. Informant interviews of individuals involved in policy process at the time were also conducted. Study of these documents and informant interviews allowed for multiple perspectives to be incorporated into the analysis through cross-data comparison and integration.

Limitations of the Study

This is a case study of HB1245 introduced in the 2003 58th ND Legislative Assembly. Because this study is based on a single case, it is not offered for generalization purposes. It serves as an example of what is possible.

Merriam (1988) cautioned that the amount of data selected for analysis might lead the reader to erroneous conclusions that overly simplify or exaggerate a situation. Thus, as the researcher, I needed to use integrity to guide the investigation. To help maintain integrity I attempted to select and review data that supported both sides of the issue. Another limitation is related to the political nature of case studies. "At all levels of the system, what people *think* they are doing, what they *say* they are doing, what they *appear* to others to be doing, and what in fact they *are* doing, may be sources of considerable discrepancy" (MacDonald & Walker, 1977; as cited in Merriam, p34).

In addition, I do not believe anyone comes to a policy issue *tabula rasa*, value-free, or uninfluenced by personal experience. I cannot be entirely unbiased; I have been a member of NDNA since 1971, served as a lobbyist for the NDNA including the 1985 legislative session when the first bill addressing entry into practice, HB1460 (1985), was introduced. I served on the NDBON from to 1987 to 1994 and I served in the 1997 and 1999 Legislative Assembly as a Representative from District 32. In addition, for the past 15 years I have been teaching in a baccalaureate level nursing program. Finally, during the 2003 legislative session I served on the NDNA Government Relations Committee, which took a stand against HB1245. I also attended the January 22, 2003, hearing on HB1245 and several conference committee meetings on HB1245. I did not provide formal testimony on HB1245 but I did write to my district legislators expressing my

concerns about how I believed HB1245 was going to lower the nursing educational requirements and requested my district legislators not support HB1245.

Citation Note

Much valuable information came from un-catalogued archival material provided to me from the offices of the NDNA and the NDBON. Files included memos, e-mails, letters, faxes, meeting minutes, and type written notes. I have cited such documents to the best of my ability by identifying the medium, author, intended audience when pertinent, and date when given. These materials are not included in the references but placed in a section titled documents consulted at the NDNA and the NDBON. Other valuable material came from the ND Legislative Council Library files. This included testimony on select bills, committee minutes, and correspondence sent to committee members. I have cited such documents to the best of my ability by identifying the medium, author, intended audience when pertinent, and date when given. Because the public has access to these materials, I have included them as a reference.

Glossary of Terms

1. Administrative rules and regulations: Boards of nursing are authorized to develop administrative rules and regulations that are used to clarify or make the statutes more specific. Rules and regulations must be consistent with the Nurse Practice Act, cannot go beyond the law, and, once enacted, have the force and effect of law. Public comment periods are provided to allow nurses, students and the public to participate in the rule-making process by submitting written comments or participating in rule-making hearings.
2. Amendment: a formal proposal to change the language of a bill after it has been introduced. Amendments must be submitted to the Legislative Counsel for drafting.
3. Agenda-Setting: “a specific pattern of action in government-particularly those in the early stages of policy development. An analysis of agenda-setting processes [becomes] an analysis of how problems developed, how they were defined, the course of action over another, the emergence of policy systems designed to act on such problems on a continuing basis” (Jones, 1984, p.57).
4. College and University Nursing Education Administrators (CUNEA): the informal affiliation that meets to discuss issues regarding nursing education in ND. Membership of CUNEA includes all the deans and directors of the nursing programs in ND.
5. Concurrence: one house approving a bill as amended in the opposite house.
6. Conference Committee: composed of three legislators (generally two from the majority party; one from the minority party) from each house who meet in

public session to forge one version of similar Senate and Assembly bills. The final conference committee version must be approved by both House and Senate.

7. **Engrossed Bill:** the final official copy of a bill as passed by one chamber, with the text as amended by floor action and certified by the clerk of the House or the secretary of the Senate.
8. **Enrolled Bill:** the final official copy of a bill that has been passed by both chambers in identical form.
9. **Entry-into-practice:** the education level required to qualify a person to practice nursing in ND.
10. **First Engrossment:** the official copy of a bill as passed by the first chamber hearing the bill, with the text as amended by that chamber.
11. **Hog housed:** a slang term, which refers to removing the text of a bill and inserting entirely new language.
12. **Journal:** the official chronological record of the proceedings in each house. The journal is the minutes of the meeting. It is a publication printed daily. At the end of session, the journals are certified, indexed, and bound.
13. **Licensure:** the process by which an agency of state government grants permission to an individual to engage in a given profession upon finding that the applicant has attained the essential degree of competency necessary to perform a unique scope of practice (National Council of State Boards of Nursing, 1998).
14. **ND Organization of Nurse Executives (NDONE):** a broad based organization that champions the diverse perspectives of its constituency and supports nurse

leaders who are in positions to influence optimal outcomes of health care. Their purpose is to promote safe and effective patient care through its leadership and through the advancement of its members as leaders and executives in healthcare management.

15. ND Board of Nursing (NDBON): a state agency composed of nine board members appointed by the governor; five registered nurses, three licensed practical nurses, and one public member whose authority is granted by the legislature and charged with regulating the practice of nursing and establishing nursing education standards.
16. ND Healthcare Association (NDHA): a voluntary trade organization of ND's licensed hospitals committed to advancing public policy and fostering excellence in medical and health services, formerly ND Hospital Association.
17. ND Long-term Care Association (NDLTCA): the professional and advocacy organization representing assisted living, basic care, and nursing facilities throughout ND.
18. ND Nurses Association (NDNA): the professional association serving registered nurses in ND. All registered nurses are eligible for membership.
19. Nurse Practices Act (NPA): state law providing for the establishment of a Board of Nursing empowered with the responsibility and legal authority for ensuring that practitioners of nursing are competent to practice in ND for the purpose of public protection of the citizens of this state. (NDCC 45-12.01-20).
20. Nursing Regulation: the governmental oversight provided for nursing practice in each state (National Council of State Boards of Nursing).

21. Regulation: to bring something under the control of a constituted authority, that is, to govern, control, or direct the practices of nurses according to established laws, rules, standards, principles, or policies.
22. Transitional license: the license issued by the board to a person who meets all of the requirements for licensure by endorsement as a registered nurse or licensed practice nurse except the educational requirements in ND Century Code Section 43-12.1-02.

The remainder of this study is organized in five chapters. Chapter II contains a background and historical context for this study. It provides the reader a framework to understand where ND stood in relation to entry-into-practice. Chapter III contains a discussion of John Kingdon's multiple streams model chosen as the analytical framework to guide this study and other relevant literature. Chapter IV includes the research methodology used and the description of the research process. Chapter V contains the presentation of the findings and Chapter VI brings together conclusions, discussion and recommendations for the future.

CHAPTER II

BACKGROUND AND HISTORICAL CONTEXT

For nursing, education for entry-into-nursing-practice has been the most contentious issue during the evolution of the profession. For almost 100 years, nurses have debated “entry”, but moved to little planned change. Rather, nursing has been swept along by a host of social and educational circumstances that had little to do with nursing. The result has been a myriad of programs with graduates used interchangeably in the real world. This absence of consensus within the discipline of nursing causes consumer confusion, seriously compromises our ability to serve the public, and is intimately associated with the nursing shortage of 2002 (Joel, 2002, Abstract, ¶ 2).

Nursing education and practice are rooted deeply in the societal, political, and economic contexts of our time. The nursing profession has been affected by wars, epidemics, and economic and social turmoil. Historically, nursing and health care have had strong ties to American politics and the larger economy. Looking at nursing’s past can help us look toward the future. As the nursing profession once again confronts a nursing shortage, policymakers and educators have renewed the debate over the future of nursing education.

The development of nursing education has been an irregular and fortuitous affair in America. Before the Civil War began in 1861, there were virtually no trained nurses in America and no schools or institutions of scholastic type that offered nursing education. Nursing throughout the colonial era and most of the nineteenth century took place within the family and home. Mothers taught nursing to their daughters as part of female apprenticeship, or they learned nursing as a domestic servant as an additional task of her job (Reverby, 1987). “The term nurse was widely used to describe a number of different

things from wet-nursing, to bedside attendant, to physician's assistant and everything in-between" (Bullough, 2004 p.161).

Post-Civil War, nursing began to emerge in the more formal urban marketplace as a category in the expanding field of domestic service. Women became available to perform nursing for a wage. A widow who had cared for her husband until he died, or a domestic servant who cared for an employer in time of illness, entered casually into the nursing trade, hired by families or individuals unable, or unwilling, to care for their sick alone. The nurse was hired by the growing "middling" and upper classes to care for their sick and infirmed (Reverby, 1987, p.5). However, the position of the nurse within the service hierarchy of a household was ambiguous. The nurse was neither as lowly as a simple domestic, nor as highly placed as a cook. As a hired outsider, the nurse became the patient's servant. The nurses' work varied in the home depending on who was sick and how much other help the family could employ. The number of women providing nursing care slowly increased throughout the nineteenth century and by 1870, over 10,000 women practiced nursing in the United States. Throughout these years, paid nursing remained the province primarily of older women with no formal training or schooling. These women were known as "professed" or "natural-born" nurses (Reverby, 1987 p. 6).

As nursing education unfolded, it became an autonomous process outside the nation's educational mainstream. External forces influenced nursing education and the service needs of hospitals took priority over the educational needs of the students. Hospitals saw an economic advantage in the establishment of schools of nursing, and the schools proved to be financially advantageous to hospitals. The hospitals were also very

frank that schools were for the hospital (Fondiller, 1986; Dolan, Fritzpatrick & Hermann, 1983; Bullough, 2004). In 1880, there were 15 schools in the United States with 323 students, and by 1890 there were 432 schools with over 11,000 students. The number of schools continued to grow, and in 1920, there were 1,775 nursing schools and the number of trained nurses jumped from 16 per 100,000 to 141. Many of the training schools started simultaneously with the opening of the hospital (Burgress as cited in Birnbach and Lewenson, 1993).

Nursing Education in the United States

Even though Florence Nightingale did not step foot on American soil she influenced the model for the training of American nurses. Nightingale believed practical and liberal training was necessary to become a nurse and learning had to take place within the hospital training school under the control of a female hierarchy that was equal to, but separate from, that of the men. Nightingale emphasized character training and strict discipline. Training shaped the controlled and sympathetic, but nonsentimental, women and replaced sexuality with motherly authority and skill. Nightingale never accepted the ideas of germ theory and disease specificity, rather she felt it was important in making the environment clean and conducive for healing. Thus, maintaining an orderly, clean, and well-ventilated environment became the responsibility of the nurse (Reverby, 1987). Nightingale's education model emphasized character training by linking duty, obligation, and order, by combining the sexual division of labor, military, and religious sisterhood models, and sanitarian ideals. It was within this context that framed the training of nurses in America (Palmer, 1985; Reverby, 1987).

In 1873, the first Nightingale influenced nursing schools were established at Bellevue Training School for Nurses in New York, the Connecticut Training School for Nurses at New Haven, and the Boston Training School for Nurses at Massachusetts General (Ashley, 1976; Flanagan, 1976). The United States hospital schools differed from the Nightingale schools in England in the respect that the United States schools were not endowed and had no independent financial backing. Due to the lack of private or public funding most of the training schools became the creations of hospital boards and were fully integrated into the work of the hospitals. This arrangement with the hospitals created the apprenticeship model: the hospital became the master and the student the apprentice. The demands of the hospital for a work force overcame the school's abilities to educate its students. Nursing education was called training; in reality it was work.(Ashely, 1976; Reverby, 1987). "Autonomy was sacrificed and altruism was sanctified" (Reverby, 1987, p. 60).

The first training programs were 12 months in length consisting mainly of lectures by physicians, supplemented by bedside instruction from head nurses and staff doctors. Very little attention was given to sequence or proportion of content in the program. One year's lectures might be entirely different from the next year (Stewart, 1943). The length of training was eventually extended to 24 months, with the first year devoted to instruction and practice and the second devoted exclusively to practice (Flanagan, 1976). The main purpose of these schools was to prepare a nurse to perform skills necessary to care for hospitalized patients and carry out physicians' orders (Kalisch & Kalisch, 1987). Apprenticeship training rather than an educational model became the acceptable route for nursing education.

As nursing education grew so did the variety of curricula and programs. Nursing programs were unplanned and chaotic. Education standards varied tremendously with no uniformity in educational requirements, depending in large part on the needs of the hospital (Fondiller, 1986; Bullough, 2004). Training programs ranged from six months to two years with each school setting its own standards. Lectures, when given, were scheduled at the convenience of the hospital or the doctor and not of the nurse. As late as the 1930's many hospitals employed no paid instructors and provided little formal instruction (Ashley, 1976). This lack of uniformity and disregard for standards and unrestrained growth of unsound training schools created concern among nursing leaders.

In 1893, the Society of Superintendents of Training Schools for Nurses in United States, the forerunner of the National League of Nursing (NLN) organized to uphold high standards of nursing education in order to achieve a higher level of nursing care. In 1917, the NLN established the first standard nursing education curriculum. This curriculum provided the outline for three-year diploma programs. The curriculum was very prescriptive and did not allow for diversity in education. In 1937, the guidelines were revised and named *A Curriculum Guide for Schools of Nursing*.

In the early 1900s, nursing education began to move to the collegiate setting. These programs initially prepared students to be nurse educators and were five years in length. In 1908, as the demand for nurses increased, the American Hospital Association urged a return to the two-year courses to meet the demand to staff the numerous hospitals opening across the country.

After World War I many leaders in nursing pleaded that nursing educational programs be improved and located in a milieu that provided a sound, broad preparation

for learning as well as earning a living. Another increased demand for nurses occurred. To meet this demand, the Rockefeller Foundation financed a study of nursing education programs headed by Dr. C.E.A. Winslow. In February 1923, the findings were published in a book called *Nursing and Nursing Education in the United States*. This study is often referred to as the *Goldmark Report*, after Josephine Goldmark (1877-1950), the member of this committee who recorded and compiled the data for the book. The study pointed out the shortcomings of nursing education and public health nursing. It was the committee's observation that: nursing maintained apprentice-type training programs attached to the management of hospitals, unlike most professions which had established independent institutions of learning and the need to secure more nursing students to meet the demand of increasing hospitals precipitated the lowering of admission standards. The committee recommended postgraduate education for nurses working in public health, higher standards of education, special training for instructors, stronger association with colleges and universities, state legislation for the definition of and licensure of subsidiary grade of nursing service, and adequate funding for nursing education (Dolan, Fitzpatrick & Hermann, 1993; Flanagan, 1976).

In response to the issues raised by the Goldmark report, a plan was formulated to create a national body to study ways to insure an ample supply of adequately trained nursing personnel who could render quality care at a reasonable price. The Committee on the Grading of Nursing Schools was created with two representatives each from the American College of Surgeons, the American Hospital Association, the American Medical Association, the American Nurses Association, the American Public Health

Association, the National League of Nursing Education, and the National Organization for Public Health Nursing as well as seven members elected at large. (Flanagan, 1976).

The committee concluded a nursing shortage existed; a shortage in quality, not quantity. This shortage of adequately trained nurses was attributed to being a direct result of not adhering to a standard for educational preparation (Flanagan, 1976). The committee speculated the lack of uniform nursing education standards was caused by the large growth of training programs that were producing poorly trained practitioners for the hospital's singular use of cheap labor for the hospital and not producing graduate nurses for public service (Burgess, 1929). The committee recommended the closure of many of the schools of nursing established as adjuncts to the management of hospitals, to transform other undergraduate programs into professional schools of nursing, and to create courses for graduate nurses (Flanagan, 1976).

World War II brought on an additional demand for trained nurses. Once again, a committee was formed to study nursing education. Recommendations of the Brown Report included the accreditation of schools, suggesting the purpose of accreditation is not primarily to serve the interests of schools, but to serve the public interest. It further asserted that the costs of accreditation to be divided between the government and private contributions (Jacobi & Craddock, 1988). The report also recommended (a) developing standards for faculty preparation, (b) improving courses in hospital-based schools, and (c) increasing the use of university teaching resources. The Brown report also recommended using the term "professional" to designate those who studied in an accredited professional school and establish two-year college-based programs to help relieve the shortage of qualified nurses.

Associate Degree Development

A critical shortage of nurses occurred after WW II. The shortage was created by the greater demand for nursing service due to the changing emphasis in medical care, advances in the field of science, advances in obstetrics and surgery, increase in life expectancy, increase in chronic diseases, hospital and medical care insurance, health and welfare programs in industry, and need for mental health service.

Hospital admissions rose by 25 percent between 1946 and 1952. Hospitals became the place to receive scientific and technological care, which substituted for home-based care. Patients came to expect state of the art treatments and procedures while being reassured and protected by the tender loving care of a nurse (Lynaugh & Brush, 1996). Margaret Bridgemen described the nursing shortage in 1953 as a “critical deficiency in nursing services and a major social problem that impacts hospitals and communities and individual citizens” (Bridgemen, 1953, p.11). The functions of nurses changed and became more complex.

With society’s increasing demand for for nursing service, Mildred Montag (1951) reviewed how schools of nursing were preparing nurses to meet society’s needs. Montag described the functions of nursing as a continuum or a spectrum-like range, varying from simple routine activities to complex activities. Simple activities include those that almost any individual could learn on the job and perform under the direction of a nurse with professional preparation. Functions at the other extreme are very complex requiring judgment, a high degree of skill and experience, and a long period of training legitimately obtained within the university or college leading to a baccalaureate degree (Montag, 1951). However, according to Montag, the majority of nursing care in hospitals,

clinics, and other agencies giving nursing care laid somewhere between the two extremes. These functions occupy the middle of the spectrum and can be described as semiprofessional or technical. Montag believed instruction and training were needed to perform these functions and the instruction and training could be carried out effectively and economically within a school. She went on to state the nurse with technical preparation would have a considerably more limited scope of practice than those required of the nurse with professional baccalaureate preparation. Montag believed differentiating nursing functions into assisting, technical, and professional functions would make it possible to set up appropriate programs for the preparation of each group of workers.

Montag proposed a new worker in nursing, one who would have predominately semiprofessional or technical functions receiving semiprofessional or technical training in community or junior colleges. The proposed curriculum for nursing technicians was two years in length, leading to the associate degree and making the student eligible for licensure. The associate degree began to proliferate and emerged as a substitute for the three-year-diploma programs. According to Kozier and DuGas (1967), graduates from diploma or associate degree programs were referred to as “technical nurses” who were prepared to execute technical skills most often guided by a set of rules, routines, and techniques, in the performances of service. Conversely, university-based baccalaureate programs were mandated to prepare “professional nurses” whose broader scope of practice was guided by theoretical knowledge of biological, physical, and social sciences, as well as humanities. Such preparation was considered essential to one’s ability to make wise nursing judgments, to guide other personnel in their activities, and to pursue graduate education.

In 1952, based on a research project by Mildred Montag, the associate degree program began. While Montag intended her proposed program be self-contained, individuals were not to be deterred from seeking further education. The first two programs were established as frank experiments (Waters, 1990). The associate degree nurse (ADN) was originally intended to be a technical nurse and to work under the guidance of a professional nurse. The ADN's education was based in a community or junior college and intended to be completed in two years. Education curricula included general education along with nursing content. The program did not intend to include leadership, management, and research. The education was to be scientifically based, but technically oriented, and not concerned with developing theory. During the 1960's ADN programs began growing at a rate of 38 new programs each year. By 1975, the number of ADN programs had risen to 618, and the status of associate degree education became a heated national issue (Fondiller, 2001; Waters, 1990). In March 1966, the ND Board of Higher Education approved the opening of the first ADN program in nursing at Dickinson State College. In September 1967, the first class of 65 was admitted (Paulson, 1979). Initially, Montag recommended a single licensure for all nurses (Montag, 1951). Twenty-five years later Montag reconsidered her position and urged two discrete licenses for nursing (Fondiller, 1976).

Across the nation, nursing continues to have multiple levels of education for entry-into-practice as a registered nurse. These educational levels range in length from a two year associate degree, three year diploma, to a four year for a baccalaureate degree.

In the early 60s, 75% of all nurses preparing to be licensed as an RN were educated in diploma schools of nursing, 16% in baccalaureate programs, and associate

degree nursing was in its infancy. By 2000, only 6% of nurses were educated in diploma schools and nurses attending baccalaureate programs increased to 30% while graduates from associate degree programs increased to 60% (Gosnell, 2002).

Public Protection: Regulation of Nursing Education

The lack of legal control over the use of the title trained (or professional) nurse and the increasing number of training schools with inconsistent education standards throughout the country caused great concern among nursing leaders. (Flanagan, 1976; Stewart, 1943). It became apparent to nursing leadership that if nurses were to assume professional roles, legislation was needed to protect the public from poorly prepared nurses.

In 1893, the Society of Superintendents of Training Schools for Nurses in United States, the forerunner of the National League of Nursing (NLN), was organized to uphold high standards of nursing education in order to achieve a higher level of nursing care. Similarly, in 1896, social needs prompted the organization of the Nurses Associated Alumnae of the United States and Canada, the forerunner of the American Nurses Association (ANA) for the purpose of standardizing nurse training and securing laws to protect the public from poorly prepared nurses. The Society of Superintendents of Training Schools for Nurses represented the interests of education; and the Nurses Associated Alumnae represented the interests of graduate nurses. Together they supported the need to standardize nursing education. Annie Damer, the second president of the American Nurses Association, stated during the fifth annual convention in 1902 that "We have reached the time when we should demand recognition as a profession through the granting of a proper certificate by a state constituted and maintained Board of

Examiners” (Flanagan, 1976, p. 335). This was the beginning of the first nursing-controlled credentialing effort in American nursing. To create some order out of the variety of training programs being offered in the United States, the regulation of nursing by state governments was sought under their powers to license persons whose practice affected the health and welfare of the public (Carroll, 1979). Early efforts of the group focused on the campaign for state registration for nurses (Bullough & Bullough 1994).

The ANA and the NLN launched a national campaign for voluntary licensure for nurses in 1900. There were two basic goals to their campaign: to establish legal credentials that graduate nurses could use to identify themselves in the labor market, and to establish control by nurses over access to credentials and use this control as a basis for setting educational standards (Flanagan, 1976). The campaign quickly led to the growth of state nurses’ associations across the nation. The state nurses’ associations organized to work for the passage of nurse practice acts. By 1901, state nurses associations were promoting legislation that would standardize nurse training as well as regulate nursing practice. The goal was to convince state legislatures across the nation that the nursing profession should be responsible for determining standards of nursing education and nursing practice.

Establishment of the ND Nurses Association

By 1912, 13 training schools existed in ND. As hospitals established across the state, so did nurse training programs to assure an adequate workforce (Paulson, 1979). As training schools grew across the state, a group of trained nurses in ND became concerned about the varying length of nurse training programs, varying curricula, little or no attention to uniform requirements, and no accountability for teaching nurses. These

nurses mobilized nurses across the state and on May 7, 1912, the constitution and bylaws for NDNA were adopted with 155 charter members. One of the first items of business was the creation of a Committee on Education which realized a need for a uniformity of training in the nursing schools in ND (Teichmann, 1967; Erdmann, 1912). Next, a legislative committee was appointed to create a regulatory agency to oversee nursing programs not governed by post-secondary government entities. The plan was created to support the standardization of nurses' training and to approach the ND legislature and ask for a registration law. They proposed a law requiring nurse-training programs to meet certain criteria and that the graduates of those programs would have to comply with the criteria and be known as "registered" nurse (Paulson, 1979). The law would provide public protection, as the public would know that a "registered" nurse had a certain type of training. NDNA President Erdman (1912) wrote a letter to the Committee on Registration of the ND Medical Association asking physicians to support the registration of nurses stating,

There is a great need for recognition of the properly, trained nurse in ND, since the term "trained nurse" can be used by anyone the term "graduate" again signifying that the individual has received a training, but of no definite educational standard. The title of Registered Nurse (R.N.) signifies a graduate nurse-and more, she is registered which provides that such nurses must have had at least the required common school education before entering the training school connected with a general hospital when a three years' systematic Course of Instruction is given, which training may be obtained in one or more hospitals....When the time comes for the nurses to present their bill, the Committee trusts that every physician who realizes the importance of a thorough, systematic training and education of the nurse, will stand firm and support the movement (Erdman, 1912).

On January 13, 1915, at the request of NDNA Senator Rowe, Senate Bill 48 (SB48, 1915) was introduced to provide for the examination, registration, and regulation of trained nurses. Thanks to the lobby efforts by the original members of the NDNA, SB48 received unanimous passage in both the Senate and the House. Passage of SB48 created the original ND Board of Nurse Examiners the forerunner of ND Board of Nursing (Teichmann, 1967).

First Board of Nurse Examiners

On March 9, 1915, ND Governor Louis B. Hanna signed SB48 (1915) and it became law on January 1, 1916 (Mahan, 1982). The first Board of Nurse Examiners was a five-member board appointed by the governor from a list of ten nurses proposed by the ND Nurses Association. The term of board members was placed at five years (The trained nurse, 1915).

The first board meeting was called to order on September 2, 1915, in Bismarck. Miss Jenny Mahoney (as referred to in documents) from Grand Forks was elected chair and Miss Pearl Weed (as referred to in documents) from Bismarck was elected secretary-treasure, and appointed Inspector of Training Schools. Duties of the newly appointed Board of Nurse Examiners was to define the rules and regulations necessary for implementation of the Nurse Practice Act, to inspect the nursing schools, and write a pool of essay-type test questions to be administered at each of the upcoming licensing examinations (Conrad, 1987; Paulson, 1979).

The 1915 Nurse Practice Act specified the course of study for schools of nursing. It listed a two-month preparatory course followed by intense clinical experience during

the remaining 10 months of the first year, and the next 12 months of the second and third year of “training.” Hours of instruction were minimal and nursing experience was required in Medical, Surgical, Gynecologic, Pediatric, Obstetric, and Operating Room Nursing. The new act went as far as stating how many deliveries a student must attend. It also listed recommended textbooks which included *Notes on Nursing* by Nightingale, *Nursing Ethics* by Hampton-Robb, and *History of Nursing* by Nutting and Dock. All of these requirements were a stimulant for improvement because they had a legal impact (Paulson, 1979).

One of the first objectives after the passage of the NPA was to inspect all hospitals claiming to have “Training Schools.” On October 21, 1917, the Inspector of Training Schools reported 15 schools were found to be eligible for approval. Upon approval by the Board of Nurse Examiners the graduates of those programs were allowed to “register” with the Board of Nurse Examiners and could be called “Registered Nurse” (Board of Nurse Examiner Minutes, October 21, 1917). Oversight by the profession’s regulatory agency was deemed appropriate because of the number of nursing programs not in institutions of higher education governed by post-secondary government entities.

As early as 1917, some of the small hospitals that had opened training schools for nurses for economical staffing of their institution did not want restrictions and regulations. As a result, in 1917, 36 nurses dropped their membership with the NDNA and banded together to form their own state nurses association. They had bills submitted in the 1917 and 1919 legislative session to lower the newly passed nurse education standards, both legislative attempts were unsuccessful at rescinding the educational standards (Conrad, 1987; Teichman, nd).

Changes to ND Nurse Practices Act

The original 1915 NPA was amended numerous times over the years. Most of the changes occurred at the request of NDNA. Major revisions to the NPA occurred during the 1977 ND legislative session. Legislators Wagner and Mund introduced House Bill 1299 (HB1299, 1977) at the request of the NDNA. HB1299 combined the registered nurse and the licensed practical nurse practice acts into one practice act, the adding of a public member to the board of nursing, and the provisions for promulgation of rules governing nursing education programs. The revision with the greatest impact was the broadening of the powers and duties of the NDBON to establish standards for all nursing education programs or acknowledge programs accredited by national nursing accrediting agencies (see Appendix C for Chapter 400 Nurse Practices Act, 1977). The 1977 revision to the NPA broadened the powers and duties of the Board of Nursing by confirming:

The legislative assembly finds that the practice of nursing is directly related to the public welfare of the citizens of ND and is subject to regulation and control in the public interest to assure that competent practitioners and high quality standards are available. It is essential to govern qualifications for licensure with requirements for the maintenance of high standards and to state sanctions for which an illicit, unqualified, dishonest person or one that is otherwise against the public interest can be disciplined. This chapter shall be liberally construed in order to carry out its purpose and objectives (Nurse Practices Act, 1977).

The clear intent in the revision was to allow the profession of nursing to deal with issues and set internal standards. The legislature gave the Board of Nursing the power to set educational standards and to regulate nursing. This opened the door for the Board of

Nursing to implement ANA's 1965 recommendation that the "minimum preparation for beginning professional nursing practice at the present time should be baccalaureate degree education in nursing" (ANA, 1965 p.6).

ANA Position Paper

In 1965, the ANA published their first position paper on nursing education titled, *Educational Preparation for Nurse Practitioners and Assistants to Nurses: A Position Paper*. The position paper contained the recommendation that the "minimum preparation for beginning professional nursing practice at the present time should be baccalaureate degree education in nursing" (ANA, 1965, p.6). The position paper described three levels of nursing (a) baccalaureate education for beginning nursing practice, (b) associated degree education for beginning technical nursing practice, and (c) vocational education for assistants in the health service occupations (ANA, 1965 p.5). The underlying assumption for the development of this position was that education for those in the health care professions must increase in depth and breadth as scientific knowledge expands. Moving nursing education into the mainstream of collegiate education and having two types of nursing personnel met with outrage and dismay by much of the nursing community. It divided the organization for years to come and also contributed to divisions within the profession (Fondiller, 1986).

Entry into Nursing Practice in ND

In 1978, the American Nurses Association established a goal that 10 percent of the states would implement "baccalaureate" education for registered nurses by 1985. During the 1978, ND State Nurses Association (NDSNA) annual convention, a resolution was brought forth by NDNA House of Delegates charging the NDNA Council on

Education to study the issue of entry-into-nursing-practice and the ramifications for nursing service, nursing education, and nurses in ND (NDSNA, October 12, 1978). I was a delegate to the 1978 state convention when the NDNA House of Delegates charged the NDNA Council on Education with studying the issue of entry-into-practice. The floor debate was heated and there was strong division between nurses who had different educational preparations. After much debate the resolution passed.

In March of 1983 NDNA made entry-into-nursing-practice its number one strategic plan priority. To begin that effort NDNA asked representatives from diverse nursing groups to attend a meeting on the entry issue. In April 1983, NDNA invited representatives from every ND school of nursing, the NDBON, the ND Federation of Licensed Practical Nurses' Association, nurse administrators, staff nurses, and Concerned Registered Nurses of ND a group opposed to changing entry requirements. At the end of the meeting, participants voted to continue working toward two levels of entry-into-practice, with the associate degree as the entry level for licensed practical nurses and the baccalaureate degree for professional registered nurses (NDSNA,1983). During the 1983 annual NDNA convention, support for bi-level entry-into-nursing-practice was reaffirmed and a nine-member statewide Coordinating Committee on Entry-into-Nursing-Practice was created.

The Coordinating Committee met numerous times and deliberated at length about whether to accomplish entry-level changes by changing the NPA through the legislative process, or by revising the administrative rules to the NPA. Administrative rule revision was an option due to the changes in the NPA, which occurred during the 1977 legislative session, the changes gave the NDBON the power and authority to develop rules.

In May 1984, after several years of meetings with many state and local nursing and healthcare entities, the members of the Coordinating Committee met with the NDBON. The Coordinating Committee requested the board to revise the rules to reflect one standard of education for registered nurses and one standard of education for licensed practical nurses. The Coordinating Committee also required that education take place in an academic setting and the program to provide transferable academic credit. At the time, there were five baccalaureate-nursing programs and two associate degree programs leading to RN licensure in the state located in institutions of higher education. Three diploma, three-year nursing programs leading to RN licensure affiliated with a hospital were also located in the state. There were four practical nursing programs, all vocational in nature; three of the programs had just transferred to institutions of higher education enabling them to offer academic credit. The fourth program remained affiliated with a hospital. The Board of Nursing agreed to rewrite the rules to reflect two levels of nursing practice.

In 1984, the Board of Nursing promulgated rules calling for baccalaureate education for registered nurses and associate degree education for practical nurses. The rules allowed the Board of Nursing to close nursing programs that did not comply with the rules.

Promulgation of the rules did not come without a conflict. The diploma nursing programs affiliated with hospitals had a legislator request an Attorney General's opinion asking if the Board of Nursing had the authority to close diploma programs. The Attorney General's opinion was yes; the Board of Nursing through legislative action obtained in the 1977 legislative session, had the power to set the standards and could close certain

types of programs. This response led to the introduction of legislation at the request of diploma programs to place the diploma and vocational programs within the NPA so they could not be closed, and to remove the power of the Board of Nursing to set educational standards. This was the start of a challenge against entry-into-practice in ND.

First Challenge of Power

In January 1985, an intense legislative battle occurred during that year's legislative session, pitting hospital administrators, diploma registered nursing programs, and their graduates, against organized nursing. Representatives O'Connell, D. Olsen, Haugland; Senators Redlin, Stromme, and Freborg introduced House Bill 1460 (HB1460, 1985) on behalf of nurses who were concerned about the closure of the diploma schools. HB1460 (1985) included amending the definition of a nurse to read, "a registered nurse is one who graduated from an accredited associate degree, hospital diploma, or baccalaureate degree school or program of professional nursing" (HB1460, 1985). Language was also included in the bill that would limit the Board of Nursing from any action that would result in the elimination of any type of nursing education program. This was the first bill in a series of bills introduced in the last seven out of 10 legislative sessions since 1985 to negate the power of the regulatory authority of the Board of Nursing.

On February 2, 1985, over 300 nurses attended the hearing on HB1260 (1985) at the state capitol in Bismarck conducted by the House Services and Veterans Committee. The testimony centered on whether the Board of Nursing could close nursing programs if the proposed changes in the rules were made. Proponents of HB1460 (1985) included: (a) Representative David O'Connell, prime sponsor of the bill from Lansford, ND; (b)

Representative Dagne Olson, from Manvel, ND; (c) Terrance Brosseau, President of Medcenter One Hospital (d) Vice President of ND Hospital Association, (e) Mary Schwichtenber, Director of Medcenter One School of Nursing, Bismarck, and (f) Shirleen Halloway, Director of Trinity School of Nursing in Minot [Medcenter One Hospital and Trinity School of Nursing were two of the three diploma-nursing programs in the state.] (HB1460 Committee minutes, 1985).

Proponents of the bill testified that there were no states that adopted the minimum preparation for beginning professional nursing practice be a baccalaureate degree. They cited several states that attempted to require a baccalaureate degree for entry-into-practice, by going through the legislative process, and were unsuccessful in requiring a baccalaureate degree. Terrance Brosseau (1985) testified before the ND House Human Services and Veterans Affairs Committee emphasizing,

Now the ANA is targeting states that have language in their NPA that would allow the State Board of Nursing to make the changes independently without going to the legislature. The states targeted this year were Oregon, Maine, Montana, and ND with each of these state nurses association receiving a \$24,000 grant to implement the new entry into practice concept". He continued by pointing out that the ND Hospital Association opposed entry into practice in 1981, because it:

1. Would drastically reduce the supply of nurses available in this country and there was absolutely no evidence that graduates from hospital schools of nursing were any less competent than baccalaureate graduates.
2. Would drastically increase the cost of healthcare not only in ND but across this country (Brosseau, 1985).

Opponents of HB1460 (1985) included: (a) Janet Schauer, NDBON President, (b) Lorraine Bourgois, NDNA President , (c) Sue Ehlers, member of the ND Licensed Practical Nurses Association, and (d) Dr. Inez Hinsvark, Dean of the University of ND College of Nursing. In opposition to HB1460 (1985) Bourgois, NDNA President argued,

The authority for nursing, as for other professions, is based on a social contract, which in turn derives from a complex social base. There is a social contract between society and the professions. Under it's [*sic*] terms society grants the professions authority over functions vital to itself and permits them considerable autonomy in the conduct of their own affairs. In return, the professions are expected to act responsibly always mindful of the public trust. Self regulation to assure quality in performance is at the heart of this relationship.... Bourgois, went on to state, HB 1460 removes certain powers from the Board of Nursing, it is not clear who is to assume these powers. Does it then follow that professional disputes will become a biannual debate on the floors of the House and Senate? (Bourgois, 1985).

It was the NDBON's intent that graduates of both RN and LPN schools of nursing be held to certain levels of competencies that allow the safe practice and the provision of high quality nursing care for ND citizens. Changes in nursing education requirements are futuristic. When rule revisions concerning educational standards are changed, only schools, would need to make the necessary adjustments to meet the revised rules. The nurses currently licensed would not be required to obtain a baccalaureate degree to practice as an RN or an associate degree to practice as an LPN.

On January, 1985, the united lobbying efforts of the NDNA and the NDBON helped to defeat the HB1460 (1985) by a vote of 68 to 36 in the ND House of Representative. During the debate on the House floor the Majority Leader asserted, "the legislative floor was no place to settle internal professional issues and that the bill should never have been filed"(Maher, n.d.).

In November 1985, the NDBON adopted new rules to the ND NPA to implement two levels of education to enter nursing practice. In January, 1986, the rule revisions were filed with ND Legislative Council as required by law.

The Law Suit

On March 20, 1986, Medcenter One Hospital in Bismarck and Trinity Hospital in Minot, two of the diploma nursing programs, served members of the NDBON with a temporary restraining order in which the district court had temporarily enjoined the Board of Nursing from enforcing the new rules for educational standards. The lawsuit claimed the present law authorizing the NDBON to establish standards for all nursing education programs was an unconstitutional delegation of legislative power to the NDBON in violation of the ND Constitution. On April 24, 1986, plaintiffs filed a motion to halt all proceedings and asked the court to certify two questions of law to the ND Supreme Court, which the District Court accepted over the NDBON objection. The two questions were: If the legislature establishes a licensed profession, and provides for two separate levels of that profession, and sets out the general skills and body of knowledge to be utilized in each of the two separate levels, and requires a test and an education to obtain a license at either level, then is it unconstitutional for the legislature to create an administrative board to establish the contents of the test and the contents of the education. And are the educational requirements established by the Nursing Board unconstitutional because of being unreasonable (Trinity Medical Center and Medcenter One v. ND Board of Nursing, 1986). On October 2, 1986 oral arguments were heard before the ND Supreme Court. The Supreme Court went on to state:

The advancement of professions by increasing the body of knowledge has long occurred in institutions of higher education. As a well-educated body of nursing knowledge is developed through research, baccalaureate nursing programs will provide the education professional nurses need. We think the direction taken in ND will serve the rest of the country as a prototype for advancement of both the nation's health care and the nursing profession.

Entry into Practice Established in ND

On January 1, 1987, the proposed rules by the NBON were established. The rules stated that all candidates for a licensed practical nurse designation have an associate degree with a major in nursing granted by a postsecondary institution offering transferable academic credit. Beginning on the same date, all candidates for the professional registered nurse designation must have a baccalaureate degree granted from a postsecondary institution with an upper division major in nursing (ND Administration Code Section 54-03.1-06-02 and 54-03.1-07-02). ND became the first state to standardize educational requirements for two entry levels of nursing practice. The associate degree in nursing became the educational requirement for licensure to practice as a licensed practical nurse and a baccalaureate degree in nursing as the educational requirement for licensure to practice as a professional registered nurse. Nurses who graduated from nursing programs prior to 1987 leading to licensure as a registered nurse or a licensed practical nurses were “grandfathered” and were not required to obtain the required academic degree. During this time, Oregon, Maine, and Montana were also considering the baccalaureate degree requirement to be licensed to practice as a registered nurse. However, they were not successful, and to date no other state has succeeded in achieving baccalaureate degree as the educational standard for entry-into-practice.

Education Requirements Placed in Nurse Practices Act

In 1992, the NDBON began long range planning to review the NPA for potential revision. A task force was created to review and draft revisions to the Nurse Practices Act. Members of the task force included representatives from (a) the NDBON, (b) the NDNA , (c) the College and University Nursing Education Administration (CUNEA), (d)

the ND Organization of Nurse Executives (NDONE), and (e) advanced practice registered nurses. A recommendation from the task force was to include the educational requirement for each level of nursing in the definition of nursing in the NPA. The recommended changes to the NPA were drafted and the NDBON held an open public forum inviting oral and written comments on the draft revisions to the NPA. After consensus building meetings with NDNA, ND Medical Association, and ND Board of Medical Examiners, the NDBON drafted a bill to be introduced in the 1995 ND Legislative Session. This major change was the first since 1977.

At the request of the NDBON, SB2192 (1995) was introduced into the 1995 ND Legislative session. Testimony presented by the NDBON before the House Human Services Committee identified two overall goals. First, to remove barriers to the practice of nursing which included removing the four-year period for nurses coming into the state without a baccalaureate degree to obtain the required baccalaureate degree. The NDBON recognized that the needs of nurses obtaining additional education varied and recommended an individualized education plan to complete the degree. However, the board went on record stating they would never support lowering the educational standards; that would not be in the best interest of the citizens of ND (Haagenson, 1995). The second goal was related to the Board's overriding charge to protect the public, which included defining for the public who is a nurse and what is nursing. This included adding the educational levels of nursing to the definitions of nursing in the NPA to read as:

Licensed practical nurse" means a person who holds a current license to practice in this state as a licensed practical nurse and either has an associate degree with a major in nursing or has completed the educational requirements in effect when the person was initially licensed. (SB2192, 1995)

Registered nurse” means a person who holds a current license to practice in this state as a registered nurse and either has a baccalaureate degree with a major in nursing or has completed the educational requirements in effect when the person was initially licensed. (SB2192, 1995)

Including the educational levels in the NPA rather than in the administration rules was a major revision to the NPA in 1995. By placing the educational requirements in the statute, clearly identified the educational standards required for entry-into-practice in ND. In 2003, HB1245 removed the educational requirements in the NPA. Removing the educational requirements from the NPA became a focal point during the 2003 ND Legislative session and will be discussed in further detail in Chapter V.

CHAPTER III

LITERATURE REVIEW

“Given the staggering complexity of the public policy process, the analyst must find some way of simplifying the situation in order to have any chance of understanding it.”
(Sabatier, 1999 p. 4).

This chapter initially discusses the definitions of public policy and problem definition. The next section reviews several agenda-setting models which are the primary mode of analysis for policy issues. Next, John Kingdon’s agenda-setting multiple streams model is discussed in detail. It is important to work from a basic framework to understand the theoretical base of the policy streams model, not to create new theory. Finally, the literature on occupational licensure and regulation of nursing education is discussed.

Public Policy

Public policy focuses on what John Dewey (1927) once expressed as ‘the public and its problems’. Public policy is concerned with how issues and problems come to be defined and constructed and how they are placed on the political and policy agenda. David Easton (1965) alleged public policies stem from the “authorities” in a political system, namely, government officials and agencies, which usually affect substantial numbers of people. Anderson (2003) stated public policies do not just happen, but are designed to accomplish specific goals or produce definite results. Peters (1995) defined public policy as the “sum of government activities, whether acting directly or through agents, as it has an influence on the life of citizens” (p.11). Birkland (2001) defined

public policy as “a statement by government of what it intends to do or not to do, such as law, regulation, ruling, decision, or order, or combination of these”(p.9). Longest (2002) summed up the definition of public policy as “authoritative decisions made in the legislature, executive, or judicial branches of government that are intended to direct or influence the actions, behaviors, or decisions of others” (p11). Anderson (2000) clearly differentiates between a decision and a policy by offering the following definition: a public policy is a “relatively stable, purposive course of action [or inaction] followed by an actor or set of actors in dealing with a problem or matter of concern”, (p.4) and can be recognized by its component parts (a) demands made on a system, (b) responsive decisions providing policy directions, (c) formal policy statements, (d) outputs and action taken, and (e) outcomes focusing on societal implications. Kingdon (1995) defined public policy making as,

A set of processes, including at least (a) the setting of the agenda, (b) the specification of alternatives from which a choice is to be made, (c) an authoritative choice among those specified alternative, as in a legislative vote or a presidential decision, and (d) the implementation of the decision” (pp. 2-3).

The *Oxford English Dictionary* (2001) revealed an interesting history about the word ‘policy’ by defining policy as a ‘prudent, expedient or advantageous procedure’ and as a ‘device, expedient, contrivance...stratagem, trick’(p. 26). Parsons pointed out that Shakespeare used ‘policy’ in various ways:

Policy encompassed the arts of political illusion and duplicity. Show, outward appearance and illusion were the stuff of which power was made. Shakespeare employed the terms of Machiavellian philosophy...Power cannot be sustained purely with force. It needs, in a Machiavellian sense, *policy*” and ‘policy sits above conscience’, as the bard tells us in *Timons of Athens* (Parsons, 1995 p. 14).

The definitional problems posed by the concept of policy suggest that it is difficult to treat it as a very specific concrete phenomenon. Public policy is highly dynamic and often subjective. The emphasis on courses of action or inaction characterizes public policy as well as the selection of goals and standards rather than specific, targeted decisions. The attempts at definition also imply that it is hard to identify particular occasions when policy is made. In examining a particular event like changing the nursing educational requirements, “it is important to understand why some subjects become prominent on the policy agenda and others do not, and why some alternatives for choice are seriously considered while others are neglected” (Kingdon, 1995, p. 3).

Problem-Definition

The process whereby conditions become defined as public problems has been dubbed problem definition. “Problem definition” determines what we choose to identify as public issues and how we think and talk about concerns (Rochefort & Cobb, 1994 pvii). Kingdon (1995) describes problem definition as a process in which indicators, preexisting perceptions, and focusing events combine stochastically to create the elements for policy change. Kingdon (1995) also suggests there are polices looking for problems and key actors are looking for these policies that need justifications. Kingdon (1984) wrote, “Getting people to see new problems, or to see old problems in one way rather than another, is a major conceptual and political accomplishment. (p. 121). Likewise, Baumgartner and Jones (1993) observed that change can occur either gradually or through dramatic punctuations that suddenly alter policy sentiment and issue definition.

Policy conflict often results from differences over how a given issue has been defined, especially when the problem is assumed and not explicitly stated, lending confusion to outside observers and other participants (Rochefort & Cobb, 1994). The problem definition perspective also can help explain the outcome of the policy process. “As political discourse, the function of problem definition is at once to explain, to describe, to recommend and above all, to persuade” (Rockefort & Cobb, 1994 p. 15). Cobb and Elder (1983) wrote, “Policy problems are not simply givens, nor are they matters of the facts of a situation, they are matters of interpretation and social definitions” (p.172).

Hogwood and Gunn (1984) described problem definition as,

The process by which an issue (problem, opportunity, or trend), having been recognized as such and placed on the public policy agenda, is perceived by various interested parties; further explored, articulated, and possibly quantified; and in some but not all cases, given authoritative or at least provisionally acceptable definition in terms of its likely causes, components, and consequences”(p.109).

Stone claimed the essence of problem definition is a “causal story” in which political actors transform “difficult conditions” into public problems amenable to human actions (Stone, 1989, p. 282). Stone argued that, “Problem definition is a process of image making, where the images have to do fundamentally with attributing cause, blame, and responsibility, and that political actors use narrative story lines and symbolic devices to manipulate so-called issue characteristics, all the while making it seem as though they are simply describing fact” (1989, p. 282).

Wildavsky (1979) argued that public officials will not take a problem seriously unless there is a proposed course of action attached to it. He stated, “A problem is linked

to a solution; a problem is a problem only if something can be done about it” (p. 42).

Wildavsky predicts that if any proposed solution is implemented, it creates a whole new set of issues, thereby ensuring that no public problem ever really dies.

As described, problem definition has various dimensions. The question remains about the connection between problem definition and the process of agenda-setting by which issues rise and fall in political prominence. To summarize problems Zahariadis (1999) explained:

The problem under conditions of ambiguity is that we don't know what the problem is; its definition is vague and shifting. Distinguishing between relevant and irrelevant information is problematic and can lead to false and misleading facts. Choice becomes less an exercise in solving problems and more an attempt to make sense of a partially comprehensible world (p. 241).

Agenda-Setting

Agenda-setting, the transformation of social problems into political issues and proposals for governmental action, precedes the adoption of new policies. However, how a social problem gets the attention of policy-makers and is placed on the public policy agenda varies. Cobb and Elder (1983) believed issues arrive on the agenda when a “conflict between two or more identifiable groups occurs over procedural or substantive matters relating to the distribution of positions or resources” (p.82).

To expand a conflict and gain agenda-setting status, a group may first reach out to identification groups, who generally support their interests. Next, the conflict may expand to attention groups...those who share a common interest on this one issue or a single aspect of the issue” (p.106-107).

As an issue expands further, it may first capture the interest of the attentive public the segment of the public most interested in the political issues. The general public is the last and broadest layer of the population to become aware of an issue.

Cobb and Elder (1983) stated issues gain entry on an agenda either systemically or through an institutional formal agenda. The first is the systemic agenda which “consists of all issues that are commonly perceived by members of the political community as meriting public attention and is involving matters within the legitimate jurisdiction of existing governmental authority” (p. 85). For an issue to gain access to the systemic agenda, one of three prerequisites is deemed necessary (a) widespread attention or awareness, (b) a shared concern by a sizeable portion of the public that some action should be taken, and (c) a shared perception that the matter is appropriate for some level of government and falls within the parameters of its authority. The systemic agenda is composed of fairly abstract and general items that only identifies a problem area. Once the issue is perceived to require attention, it can be placed on the institutional, governmental, or formal agenda.

The institutional, governmental, or formal agenda is a “set of items explicitly up for active and serious consideration of authoritative decision-makers” (p.86). Explicitly refers to an issue requiring action. The formal agenda is usually specific, concrete and limited in the number of items and identifies the problems needing attention by decision-makers.

According to Cobb and Elder (1983), “the issues in a conflict will vary along several dimensions, and how an issue is defined....will have important bearing on the nature and eventual outcome of a conflict” (p. 96). The five definitional dimensions include (a) the degree of specificity, (b) the scope of social significance, (c) the extent of temporal relevance, (d) the degree of complexity, and (e) the degree of categorical precedence. “Each of these dimensions describes a continuum along which an issue must

be defined” (p. 97). Specificity refers to the degree of concreteness or abstractness with which an issue will be defined. Measures of specificity include the extent to which specific objectives are articulated. Symbolic or slogan language will most likely occur within this dimension. Social significance identifies if the issue is limited to the immediate disapproving or has a wider audience. It speaks to the number impacted and the affect of the issue on the group impacted. Temporal relevance relates to whether the issue will have only short-range implications related to a given set of circumstances or whether it will have long-range implications. Examples of temporal relevance might include perceptions of time necessary to implement a desired program by both the disputant’s disapprovers and the relevant governmental officials, and an evaluation by the disputants and bureaucrats of what the real issue is in a particular conflict. Complexity indicates whether the issue is highly technical or reasonably simple to be understood. Cobb and Elder identified complexity as a matter of perception and is not related to the number of facts in the issue. Symbolic language may also be used to manipulate complexity by making the issue appear simpler or more complex than it actually is. The final dimension, categorical precedence, refers to the extent to which an issue is a routine matter with a clear precedent or whether it truly is an issue without precedent.

Opposing parties will play an active role in defining issues along some or all of these dimensions. However, conflicting parties will not always agree on how the issues are to be defined. As Schattschneider (1960) commented, “Political conflict is not like an intercollegiate debate in which the opponents agree in advance on a definition of the issues. As a matter of fact, the definition of the alternatives is the supreme instrument of power” (p. 68). Control over how the issues of conflict are defined means “control over

the choice of battlefields upon which a conflict will take place. A group will always select a battlefield that gives it an advantage in terms of potential support” (Cobb & Elder, 1972 p. 102)

Baumgartner and Jones (1993) expanded on Cobb and Elder’s (1983) earlier work through their study of the process of issue definition and issue development over long periods of time. Baumgartner and Jones describe policy making as punctuated equilibrium or periods of relative stability interrupted by rapid and nonincremental change. They maintain that “much of the political world is never at equilibrium, but that points of stability are created and destroyed at critical junctures throughout the process of issue development” (1993 p. 22).

Proponents of a particular issue or policy solutions gain agenda entry by manipulating policy image and venue. When an issue appears on the agenda, a dominant image is established. Policy image consists of the way in which an issue is understood and discussed. Like a policy frame, it includes a definition of the problem being addressed and the appropriate solutions. Baumgartner and Jones’s concept of policy image conveys a sense of symbolism and emotive appeal, in addition to the attributes of a policy frame. Access to the formal or decision agenda may be gained through a variety of venues; the legislature, administration, courts, state and local governments, or various bureaucracies.

For Kingdon (1995), the policy agenda is “the set of all conceivable subjects or problems to which officials could be paying attention” (p. 3). Kingdon (1995) also identified two agendas, the governmental agenda and the decision agenda but with different emphasis than Cobb and Elder. The governmental agenda is “the list of subjects

that are getting attention” (p.4). The governmental agenda roughly corresponds with Cobb and Elder’s idea of systematic agenda. Kingdon’s decision agenda, is the “list of subjects within the governmental agenda that are up for an active decision” (1995, p.4) which is similar to Cobb and Elders formal agenda. The implication of Kingdon’s model is that policy issues do not necessarily emerge from civil society but may develop within government (p. 230).

Kingdon’s Multiple Streams Model

This section is a detailed discussion of Kingdon’s multiple streams model. Kingdon’s model is based on Cohen, March and Olsen’s (1972) “garbage can model of organizational choice”, (p. 84) which describes the policy process as a series of options floating around seeking a problem. Kingdon’s multiple streams model examines the process of making policies under conditions of ambiguity. It contains three independent streams flowing through the system (a) problem, (b) policy, and (c) politics. The first stream contains problems. Kingdon visualized problems as information about real-world situations, such as a dramatic or focusing event that increase the awareness of the issue thus requiring government action. Policies constitute the second stream. Policies include a wide variety of ideas generated by experts, academicians, bureaucrats, and policy makers to address the problem. Kingdon labeled the third stream politics. Politics is the conditions of political acceptability. It may be either an impetus or a constraint for the success of an issue, namely, national mood, pressure groups campaigns, and administrative or legislative turnover.

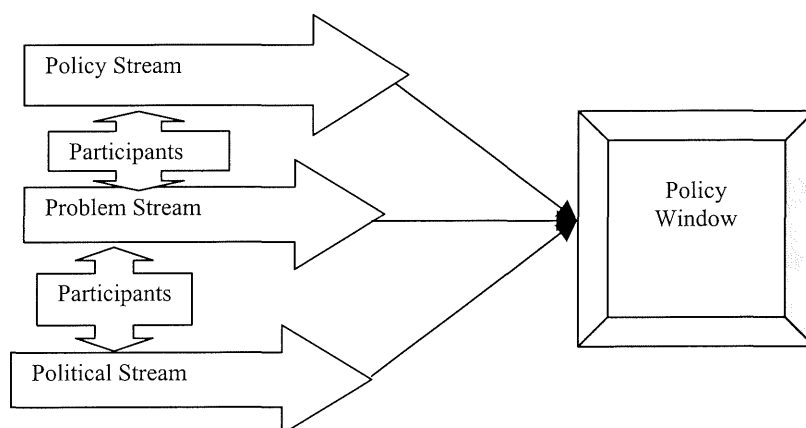
Each stream is independent from the other, with its own dynamics and rules. A key theme in Kingdon’s (1995) framework is coupling, the intersection of these three

streams at a point in time. Kingdon (1995) labeled these moments as “policy windows” a fleeting “opportunity [ies] for advocates of proposals to push their pet solutions or to push attention to their special problems” (p. 165). At these critical points in time, policy entrepreneurs couple the streams creating a window of opportunity for a new direction in policy change. Participants inside and outside the government are present in all three streams. The coupling of all three streams into a single package enhances the chances that an issue will receive serious attention by policymakers.

The use of Kingdon’s multiple streams as a framework is not so much in predicting the outcome of a prominent issue but rather, in explaining how policy issues emerge. In applying the multiple streams framework to the passage of HB1245, I was able to analyze the development of legislation in a challenging political environment.

Figure 1 illustrates Kingdon’s multiple streams model. Each stream runs parallel until they are joined or coupled creating a policy window. Participants inside and outside the government influence all three streams.

Figure 1. Kingdon’s Multiple Stream Model



The next section describes the problem, policy, and political streams, as well as policy window, policy entrepreneur, and participants more fully.

Problem Stream

Kingdon (1995) does not provide a concise definition of the problem stream. He describes however, a difference between a condition and a problem. Kingdon cited we put up with conditions on a daily basis, such as bad weather, poverty, and pestilence. However, a condition becomes a problem “when we come to believe that we should do something about them [conditions]” (p. 109). How policy makers decide to do something about the problem differs according to individual and or ideological viewpoints. The mechanisms used in the process of problem identification and definition often dictates the level of policymaker awareness as well as length of attention. Mechanisms that bring problems to the attention of policy makers are indicators, focusing events, and feedback.

Indicators

Indicators are generally statistical data that measure activity and occurrence of specific behaviors, such as disease rates, immunization rates, and infant mortality rates. Indicators can also look at the degree of workforce shortages and supply. For example, the vacancy and turnover rate of nurses in ND. When a change in the indicator exceeds a threshold, attention is focused on the indicator. Policymakers use indicators in two major ways: “to access the magnitude of a problem and to become aware of changes in the problem” (Kingdon, 1995, p.91). Indicators are not simply a straightforward recognition of facts. Data do not speak for themselves; it is how the facts are interpreted that will determine the transformation of data into policy problems.

Focusing Events, Crisis, and Symbols

Indicators are not the only way a problem gains attention of policy makers. Sometimes an indicator needs assistance to push the attention of people in and around government. A focusing event such as a crisis or disaster can add the needed push to draw the attention of policymakers. Focusing events are important because they are one of the key triggers to opening the policy window. How the crisis or disaster is perceived is based on the personal experience and value-set of the policymaker. Some crises are straightforward and bowl over everything standing in the way of prominence on the agenda, for example 9/11. However, focusing events are not always so straightforward. Being the only state in the union to require a baccalaureate degree became a focusing event in ND. Sometimes subjects become prominent because of personal experiences of policy makers. For example, many policy makers know a nurse who attended a diploma-nursing program and that individual is a very good nurse. Another variation of the focusing event is the emergence and diffusion of a powerful symbol. With the ongoing debate over nursing education, the NDNA became a symbol of entry-into-practice. Kingdon (1995) cited, "symbols catch on and have important focusing effects because they capture in a nutshell some sort of reality that people already sense in a vaguer, more diffuse way" (p. 98).

Feedback

Another mechanism to gain the attention of policymakers is feedback. All government officials receive feedback about the operation of existing programs. Feedback brings attention to policymakers if programs are not working as planned, not implemented according to legislative intent, or new problems arise from program

enactment, or unanticipated consequences occur that need to be remedied. Often the feedback comes from systematic monitoring or evaluation of programs. However, policymakers can receive feedback informally from citizens who complain about programs or policy. As a result, the policymakers become more acutely aware of the problem. For example, long-term care administrators complained to policymakers about their inability to recruit and retain nurses in their facility. Long-term care administrators blamed the educational requirement for the difficulty in recruiting and retaining nurses.

Program administrators can also provide feedback on programs to policymakers. Administrators are aware of the day-to-day problems of a program and can inform policymakers of their concerns to fix the problems. Administrators can also prevent feedback from reaching policymakers, especially if the feedback reflects negatively on their management of the program or raises questions about whether the program should be continued.

In summary, the problem stream is the heart of the multiple streams model. Kingdon concluded conditions precede problems and problems are central to agenda-setting. Conditions become defined as problems based on values, comparisons, and classification. The perceptions of a problem can differ according to individual or ideological viewpoints. Incidents, events or feedback demonstrates how a problem or condition gains prominence and gets attention to make someone believe something needs to be done to change or alter the condition. Once a problem is defined as pressing, entrepreneurs will invest considerable amount of resources to bring attention to officials to their problems and convince them to see the problem their way.

Policy Stream

The policy stream is the generating, debating, redrafting, and serious considering of alternatives created by a community of specialists to address the problem. Kingdon, compared this generation of ideas to what biologists call “primeval soup”, a place where molecules float around before life came into being (1995, p. 116). Kingdon, claimed, “Many ideas are possible, much as many molecules would be possible. Ideas become prominent and then fade...ideas are floated, bills introduced, speeches made; proposals are drafted, then amended in response to reaction and floated again” (1995, p.117). Kingdon explained the policy primeval soup in terms of four elements policy communities, primeval soup; criteria for survival, and the short list of ideas.

Policy Communities

Policy communities are composed of specialists in a given policy (Kingdon, 1995). These specialists include congressional staff members, academics, consultants, or analysts for interest groups. They are all considered a part of the primeval soup. These specialists generate ideas or alternatives, which meet varying ends. Some of ideas or alternatives die a quick death as unsustainable while others endure, waiting for the appropriate political climate to materialize. The policy community has common interactions and relationships. For example, people in health care usually know of each other and are familiar with the ideas, proposals, and research within each health care group.

Within each community, there is a certain degree of fragmentation. Some communities are very diverse and fragmented while others are very close and tightly knit. Within the health community, for example, there is a lot of diversity with the health

community representing biomedical researchers, manpower specialists, and health insurance advocates health groups. However, there is a fair amount of interaction among the admittedly diverse elements of the health community. “One health analyst perhaps overstated the point by saying, ‘Everybody knows everybody. This system is very inbred’” (Kingdon, 1995, p. 118). This is similar to the health groups in ND. Indeed, everybody knows everybody.

Fragmentation within policy communities carries with it several consequences that can impact the policies of shared concern. The first consequence is policy fragmentation. Not all of the players in the policy community know what each other is doing. As Kingdon (1995) cited, “The left hand knows not what the right hand is doing, with the result that the left hand sometimes does something that profoundly affects the right hand, without anyone ever seeing the implications” (p. 119). A second consequence is the development of a different language by community members. The more diversity a policy community experiences the greater chance for members to use words that can significantly shift the meaning from one sub-area to the next. Policy communities who use exactly the same terminology indicate an integrated community and the same terminology used by members enhances the integration. Finally, fragmentation produces instability. The lack of structure within policy communities increases variance and susceptibility to crisis.

Primeval Soup

The primeval soup offers a place where ideas from the policy community flow. Policy communities generate many ideas and try them out on others in the policy community. Some of the ideas are taken seriously, while others are rapidly discarded.

The range of ideas is quite wide and inclusive. Citing Kingdon (1995) “Many, many things are possible here” (p. 122).

As ideas float about the primeval soup, the shape and content of the ideas change. According to Kingdon, the origin of the idea is not important, what is important is the reshaping of the idea that results in the recombining of previous ideas rather than the sudden emergence of an entirely new entity. “Change turns out to be recombination more than mutation” (Kingdon, 1995, p.124). “Recombination [the coupling of already-familiar elements] is more important than mutation [the appearance of wholly new forms]” (Kingdon, 1995 p. 201).

Once an idea has recombined sufficiently, Kingdon characterizes the strength of the idea, based on its content, as more important than the pressure of those promoting the idea. As Victor Hugo posited and Kingdon cited, “Greater than the tread of mighty armies is an idea whose time has come” (1995, p. 1). Once an idea’s time has come, it has to overcome several hurdles. The idea must become part of the “intellectual puzzle” that relates to the politics of policymaking. The idea must appeal to policymakers, be interesting, and worthy for consideration. Some ideas fail to surface in a policy community because people simply find the subject intellectually boring. While promoting an idea and looking for interest, advocates will have a tendency to do one of two things. First, the advocate will oversell a policy, by having a tendency for honesty by “admitting a policy idea might work or there are problems with it” (p. 127). Second, an advocate for an idea may be swept up by intellectual fads causing the idea to become routine and no longer novel.

As ideas float freely through the primeval soup advocates or entrepreneurs of the idea begin to “soften up” policy communities and legislators as well as the public at large. The softening up is a long process left to chance. This exercise of softening might consist of floating trial balloons in the form of bill introductions, legislative language proposals, issuing reports or studies, or educating the public through the mass media or other outlets such as churches or community gathering places. This softening gets policy communities, and decision makers used to the new idea so when the opportunity to push their proposal comes, the way has been paved. Softening is necessary in order to gain awareness and acceptance of the idea from the public and policymakers, even if the politics do not support the idea currently, the intention is to make the idea viable “when its time does come” (Kingdon, 1995, p 128). Softening makes the policy soup more palatable and is critical to policy change.

Survival

Not all ideas floating around in the primeval soup survive. Before an idea can survive to prominence, it must survive against intense scrutiny and competing ideas. Ultimately, for an idea to survive it must meet three basic criteria (a) technical feasibility, (b) value acceptability, and (c) anticipation of future constraints. Technical feasibility is closely related to the implementation of the idea should it pass into law. It is important for advocates of the idea to work out the details so the idea can survive additional scrutiny during the formal legislative process of hearings, committee debates and floor votes. Attention to the technical details however does not guarantee the enacted programs will work as intended.

The second criterion is value acceptability. It is important the values embodied in the idea are compatible with the values of the policy community specialists. Not all specialists within the policy community have the same values, and in the instances of disagreement among the specialists, conflicts spill over into the larger political arena. According to Kingdon, “proposals that don’t fit with specialists’ values have less chance of survival than those that do” (1995, p. 133).

The third criterion is anticipation of future consequences. Policy communities are aware some constraints will be imposed on proposals as they unfold, namely budgetary cost of the program, and the uncertainty of the mass public and activist going along with the proposal. If the cost of a program or the acceptance of the public to the idea is missing, the votes for a bill to survive the formal legislative process will likely not be there either.

Short List of Ideas

Ideas that survive the softening up process, and satisfy the criteria by which specialists evaluate proposals, produce a short list of ideas. Specialists may not all agree on a single proposal, but a few prominent proposals come to the top of the policy primeval soup for policymakers to consider. The ideas sharpen with the emerging of an idea that serves the purpose better than the original proposal.

The emerging consensus dimension is the result of the communication and sharing of ideas among policy specialists. In their interactions, two processes are occurring “awareness of what conditions are problems and agreement on solutions or proposals that constitute viable solutions of those problems” (Kingdon, 1995, p. 139). Kingdon equated awareness and agreement to diffusion in science. The concentration of

an idea tends to spread itself evenly throughout the policy community. Over time, more and more specialists become proponents of the idea, a bandwagon effect builds, and the idea catches on. This coalition building is referred to as tipping, where bargains are struck and concessions are given in return for participation in a coalition. Specialists not convinced enjoy their support for fear of being left behind and excluded from the goodies obtained by participating specialists.

Consensus of the emerging idea may be characterized as nothing new. The new idea is actually a manipulation or recombining of old ideas that are well-known within the policy community. To make his point, Kingdon cited the Old Testament “There is no new thing under the sun” (Ecclesiastes 1:9). It is surprising if wholly new ideas suddenly appear on the scene in the policy primeval soup and immediately receive a serious hearing, because it needs to go through this long process of consideration, floating up, discussion revision, and trying out again to survive. Ideas, proposals, or issues may rise and fall, but they never fade away. The form of a proposal may change or attach to a problem different from the one they started with. If a proposal includes a solution to address the problem it has an increased chance of receiving precedence on the governmental agenda. Having an available alternative is important for decision makers to consider. “It is not enough that there is a problem, even quite a pressing problem. There generally is “a solution to go, already softened up, already worked out” (Kingdon,1995, p.142).

Political Streams

The political stream flows independently alongside the problem and policy stream. The political stream is composed of several primary components described by Kingdon (1995) as (a) the national mood, (b) pressure groups, (c) campaigns, (d) election results, and (e) governmental phenomena such as bureaucratic factors and personnel turnover related to election cycles. Kingdon (1995) uses the term “political” in its “colloquial Washington sense” (p. 145), referring to the reactions of politicians’ attention to voter reactions, pressure from interest groups, and electoral partisan. The central idea of the political stream is to include the dynamic of political factors into the policy making process.

National Mood

The national mood is the first of several elements in the political stream. Kingdon (1995) described the national mood as a shifting of public opinion. Shifting of public opinion is not confined to the policy communities discussed earlier, it is much broader and includes a rather large number of people that are thinking along common-lines. National mood changes influence policy agendas and policy outcomes. The change of the national mood serves to raise some items on the policy agenda while restraining other ideas. The national mood creates “fertile ground” for an idea to grow (Kingdon, p. 147).

Kingdon (1995) asked, “Where does this mood actually reside, and how do these people sense its content?” (p. 148). First, the national mood does not necessarily reside in the mass public, rather, in the voices of a few activists pushing the bandwagon forward if any policy impact is to take place. The role of the media is paramount as issues become more prominent, in that the shifting attention of the media has considerable effect

upon policymakers as well as public opinion. The issue spreads quickly as different media outlets become interested and report with varying contexts. Argument is made that as the media's interest in an issue rises, so also will the public's, and thus policymakers'. This explains how the "national mood has an impact on election results, on party fortunes, and on the receptivity of governmental decision makers to interest group lobbying" (Kingdon, 1995, p. 149).

The mood is sensed in several of ways. First, elected politicians learn about the national mood from their constituents through town meetings, e-mail communication, phone calls and delegations of people or individuals visiting their district office. Second, nonelected officials tend to sense the mood from what politicians tell them. They assume politicians have a finger on the national pulse.

In summary, the national mood is something public servants can feel and accurately sense and they believe the national mood has important policy consequences. A shift in climate can make proposals viable that before would have been dead in the water.

Organized Political Forces

The second component of the political stream is the balance of organized forces made up of "interest group pressure, political mobilization, and the behavior of political elites" (Kingdon, 1995, p. 150). The political stream provides the place for questions and answers of how people in and around government perceive and react to various organized activities..

Conflict and consensus is inherent among organized political forces and the level of conflict between forces, or the lack thereof, influences a policymaker's decision

process. If consensus occurs among the organized forces, the policymaker's course of action is clear. However, if the organized forces are in disagreement, policy leaders will seek to strike some balance between those for and against a given proposal. Policymakers determine strength partly in terms of frequency or intensity of communication and partly by various group's resources. If the level of communication intensifies from one side and not from the other, policymakers assume that the balance lies with the first side. If communication is roughly equal, policymakers will consider the various groups' resources. Kingdon (1995) stated, "...one side might be awarded the upper hand...because important people believe that the dominant side [has] superior political resources, such as group cohesion [an] advantage in electoral mobilization, and the ability to affect the economy" (Kingdon, 1995, p 151).

In spite of the conflict between organized forces, policymakers will arrive at some sort of balanced assessment between support and opposition as they move toward a policy decision. As policymakers deliberate over a decision, they take into account the positions of organized interests and calculate the benefits and costs of any political action. In most cases, the balance of organized forces work against change to protect current interests. Kingdon (1995) stated, "Once a government program is established, the clientele it benefits organizes into an impressive collection of interest groups whose major purpose is to protect the program from which they draw their sustenance" (p. 152). However, opposition to change does occur. Swings of national mood, constituency in favor of the proposal, and the active opposition of organized interest groups can aide in supporting a new proposal.

Government in the Political Stream

The third component of the political stream is composed of events within government itself. One event is turnover of key personnel. Turnover produces new key personnel who push a different set of issues and agendas. Kingdon (1995) cited the change of administration as the most powerful time for new proposals to be considered.

Agendas are also affected by jurisdiction boundaries. Constitutions, laws, statutes, charters, and regulations establish jurisdiction boundaries. A change in any of these defining documents impacts the jurisdiction boundaries of agencies, departments, branches, or key individuals and can create battles over turf. Competition for turf does not necessarily produce stalemate. Agenda-setting is affected by battles over turf, and some items are ignored because they are “defined away by drawing of jurisdictional boundaries” (Kingdon, 1995, p155). The jurisdictions and interests of agencies commonly reflect the positions and battles taken by agencies. Bureaucrats generally tend to defend their turf and if they do not defend their turf, it is noticed and the outcome can be significant. Governmental action can be retarded by turf disputes, especially if hearings on a proposal are divided between major committees. In addition, committee chairs may compete with one another to claim credit for some initiative that they sense will be popular. Kingdon (1995) noted this overlap and competition can also prompt action on issues.

Consensus Building in the Political Stream

Consensus building occurs in the political stream, however, it is different than the consensus building that occurs in the policy stream. In the policy stream persuasion is used to build consensus, in the political stream consensus is built on bargaining. In the

policy stream, an idea picks up momentum based on its merits and contents. In the political stream, an idea picks up momentum based on the coalition of support that is built through bargaining. Thus, the discussion in the political stream is more likely to be “You give me my provision, and I’ll give you yours,” rather than, “Let me convince you of the virtue of my provision” (Kingdon, 1995, p160).

While bandwagons and tipping occurs in the political stream like in the policy streams, however the processes differ. In the political stream, coalition supporters are enticed to join a coalition for the potential benefits; others get on the bandwagon out of fear of being left behind if something should pass. As coalitions build, participants stake out their positions and the positions are usually rigid with little room for compromise. However, compromise occurs when the bandwagon begins to roll. When the bandwagon begins to roll a policy window opens, and advocates push hard for proposals. Even opponents to the idea will join the cause in an attempt to shape the outcome of the proposal. Consensus building, sometimes sudden, occurs by cutting in many with diverse interests. Inclusion of various interest groups contributes to sharp agenda change, because various interest groups receive some benefits from participation and because a generalized image of movement is created.

The Political Stream in the Large Scheme of Things

The political stream brings together the maneuvering and bargaining among all the actors who judge whether the balance of factors in the political stream favors action. Within this stream the “balance of forces” impacting an issue are weighed by decision makers. According to Kingdon (1995) the forces are not equal in practice. He states the national mood and elections are more potent agenda setters than organized interests and

when organized interests are in conflict with the combined national mood and elected politicians, the latter will prevail in setting policy direction.

Policy Window

The policy window is the fourth component of the policy stream. A policy window is a temporal stimulus for choice. A policy window searches for an existing problem, however vaguely the problem may be defined. A policy window provides advocates of proposals an opportunity to push their pet solutions, or to push attention to their special problems. Kingdon explained that policy windows occur, in part, because policy advocates act when the “unexpected event” floats by in the problem stream or advocates sense the balance of forces in the political stream is in their favor.

Issues that have survived and raised from the systemic and governmental agendas to the decision agenda create an opportunity for a policy window to open. Participants describe this activity as “really getting hot” (Kingdon, 1995, p166). During this time, policy entrepreneurs need to act quickly to prioritize the decision agenda so action is taken on their proposal. Timing is important because when decisions are made is likely to affect what option will be selected.

Several criteria are used during this time to prioritize the decision agenda. One criterion is the amount of effort required for passage versus payoff for the effort expended. Kingdon (1995) referred to this as “soft target” (p. 167). A soft target has little opposition and offers a quick success. A second criterion is the political cost for opposing camps. When the costs of losing outweigh the costs of compromise, then participants are far more likely to strike a bargain.

Linking the three streams together is necessary, but not a sufficient condition for issue entrance. For issue entrance to occur a policy window must open. Kingdon suggested policy window openings are governed by certain fortuitous happenings including (a) unrelated external “focusing events, “ (b) crises or accidents, (c) the presence or absence of policy entrepreneurs both inside and outside governments, and (d) institutionalized events such as new administration, turnover of political actors, or budgetary cycles.

Two principle types of policy windows exist the “political” and “problem” windows. Problem window encourage a consequential search for fit. A problem window triggers a search with a problem already in mind, however vaguely it may be defined. For example, a nursing shortage exists focusing attention on inability to recruit nurses to care for patients. Consequently, the process begins with a search for appropriate solutions to an already existing problem. In the course of coupling, solutions and problems are marginally defined to ensure a good fit.

In contrast, policy window searches for or invents a problem for an already existing solution. Several reasons explain this tendency. First, the election of new administration or policy maker is the most obvious. Change of administration regardless of how small the victory, is perceived by the incoming government as approval for enacting promised policies or a punishment for the previous government. Regardless, the victors seek to emphasize that policies are adopted because the public demands change.

Predictability

Kingdon also added that windows can vary in terms of their predictability. Sometimes windows open quite predictably. For instance, legislation comes up for

renewal on schedule creating opportunities for change, expansion or abolishment of certain programs. However, the issues connected with the renewal may not be predictable. Renewal of legislation becomes a window giving policy entrepreneurs an opportunity to push their proposals. Since the renewal opens the policy window entrepreneurs do not need to affect the agenda, only prepare for the time when the renewal comes. Other times, windows open unpredictably, like when contamination of spinach with e-coli occurs or accidentally when the three streams join all at the same moment. Kingdon (1995) argued that windows open on a more or less predictable, cyclical, pattern stating, "Windows sometimes open with great predictability. Regular cycles of various kinds open and close windows on a schedule. That schedule varies in its precision and hence its predictability, but the cyclical nature of many windows is nonetheless evident (p. 186). Opportunities do not come all the time and when they do, the window does not stay open very long.

Seizing Opportunities

Policy entrepreneurs and advocates are continuously scanning the political landscape looking for problem-political couplings. When they detect a coupling of the problem and political streams, they "rush to take advantage" of the linking. When the moment of coupling occurs, both proponents and opponents rush in with a multitude of solutions to handle the issue. Overloading of solutions can occur resulting in failure of action because the alternatives are overwhelming and policymaker's attention drifts away to more manageable subjects. Some problems and proposals also drift away because there is a lack of sufficient resources.

Policy Entrepreneurs

“Policy entrepreneurs are people willing to invest their resources in return for future policies they favor” (Kingdon, 1995, p 204). Concern of the problem certainly motivates policy entrepreneurs, but they are also motivated by benefits they receive for protecting and expanding their bureaucracy’s budget or claiming credit for accomplishment. Policy entrepreneurs also enjoy participating in the political process but; it is their ability to ‘soften up’ proposals that is indispensable for the policy streams model. Policy entrepreneurs write letters, give testimony, have claim to a hearing, try to get a press conference, and meet endlessly with people to float their ideas.

Policy entrepreneurs know how to highlight indicators to dramatize problems or to use focusing events to move problems higher on the agenda. According to Ricker (1986), policy entrepreneurs use manipulation of dimensions, agenda control, or strategic voting to join the streams together. Dimension manipulation and agenda control are used most frequently. Dimension manipulation is important to coupling because it affects how policy makers come to think about problems and appropriate solutions. It is a strategy for upsetting a political equilibrium by introducing new or redefining old aspects of a given issue. Policy entrepreneurs can prompt letter writing campaigns, e-mails, visits to policymakers about government programs or performance. Kingdon argued persistence is the most important quality of a successful policy entrepreneur (Kingdon, 1995) and being a member of multiple arenas or institutional venues also helps entrepreneurs skillfully move issues from one venue to another (Baumgartner & Jones, 1993). Skillful entrepreneurs hook solutions, proposals to political momentum, and political events to policy problems.

Implications

Kingdon identified three implications for the role of entrepreneurs in joining problems, policy and politics. The first implication is the difference between personality and structure. The argument is which is important to understanding social change; Kingdon argued that both are important. The second implication highlights the role of advocacy and brokerage. Advocacy focuses the policy stream to generate widespread support for an idea among the experts. Brokerage focuses on the political stream where the decision makers must consider the consequences of support or opposition of an idea in relationship to the larger picture. One person can perform both activities or one person who is an expert in advocating and another who is an expert in bargaining can perform these activities. The third implication is the ability of the entrepreneur to be flexible, think on his/her feet, and take advantage of whatever opportunities are presented. Kingdon (1995) described this process as free-form that promotes creativity. The final implication is that entrepreneurs continually push their proposal before policy windows open so they are ready with a prepackaged combination when the window does open. According to Kingdon, entrepreneurs, “constantly hook these streams together, unhook them, and then hook them in a different way” (1995, p. 183). One political appointee summarized the coupling process as;

In spite of the planning and evaluation machinery, we have here, you still have to have a loaded gun, and look for targets of opportunity. There are periods when things happen, and if you miss them, you miss them. You can't predict it. They just come along... You keep your gun loaded and you look for opportunities to come along. *Have idea, will shoot.* (Italics for emphasis) (1995, p. 183).

Spillovers

A policy window that opens for one subject will often increase the opening of a window for another subject. Kingdon (1995) described this as “spillover” or a chain of events. A spillover from another policy window can create political momentum that “sometimes establishes a principle that guide future decisions within a policy arena. At other times, a precedent spills over from one arena to an adjacent one” (Kingdon p.190). When spillover occurs, new avenues of policy are opened as new ones replace old paradigms. Reverse of the new policy becomes difficult because people become accustomed to a new way of doing things. A precedent is set and future arguments are couched in different terms, and life is never quite the same.

Occupational Licensure

Licensure is the oldest of all of the credentialing mechanisms used to regulate an occupation or profession in the United States. In the United States, licensure is a state’s rights issue, which means that professionals are regulated by each individual state. Each state legislature by enacting laws grant authority to regulatory agencies, such as boards of nursing, to establish different processes as well as requirements, standards, and criteria to become licensed. This delegation of authority allows the use of agency expertise in the implementation of statues. Such regulation gives members of the profession the exclusive right to provide a particular service to the public and prohibits all others from engaging in the defined practice area. It defines the scope of activities that constitute professional practice, establishes professional qualifications, confers title or credential upon individuals who possess those qualifications, and makes it illegal for anyone who is not licensed to engage in activities within the defined scope of practice.

The tradition of granting self-regulatory status to professional groups has been considered the unquestioned right of the traditional health professions (Gross, 1988). During most of this century, the public perception of licensing, as the visible instrument of professional self-governance, has been favorable and seldom questioned.

As a public policy, occupational licensing is controversial, some regard it as a state regulation that protects the public from the incompetent or unscrupulous practitioner (Arrow, 1963; Gross, 1977; Rothman 1987); others see it as a favor to the occupational groups by erecting entry restrictions to limit competition and raise wages (Friedman & Kuznets 1945; Stigler, 1971).

Much of the literature is one-sided following Adam Smith's ([1776] 1937) early critique of craft guilds in Europe where he focused on the ability of the crafts to lengthen apprenticeship programs and limit the number of apprentices per master, thus ensuring higher earnings for persons in these occupations. Smith stated that long apprenticeships are no assurance of quality, nor are they useful in instilling industriousness among workers. Stigler (1971) used occupational licensure to establish his "capture theory" and reported "as a rule, regulation is acquired by the industry and is designed and operated primarily for its benefit" (p.171). Gross (1977) argued professional licensing is misleading in that it promises to, but does not, work in the public interest. Shimberg (1982) indicated licensing requirements bear more relationship to social selection (e.g., age, sex, education, citizenship) than to competence. He also expressed that competency examinations are inadequate when compared with professional standards. Shimberg continued to state the vested interest of professionals has led them to ignore national manpower shortages, the insufficiency of opportunity for members of minority groups,

the unnecessary length and cost of training, the problem of mobility across state lines and the practice of colleagues are out of date.

Others defending professional licensure feel it is based on public interest (Rottenberg, 1980; Young, 1988). This becomes evident when professions conduct campaigns either to secure initial passage of a licensing statute, to increase entrance requirements, or to broaden the definition of professional practice to protect the public by excluding those considered to be “charlatans” (Gross, 1977).

While the stated purpose of professional regulation is to protect the public from unqualified practitioners, the drive for regulation generally comes from the professions, not from the public (Gross, 1984). Proponents of regulation argue that licensing assures the public that the quality of the service or product they are purchasing is maintained through the exclusion of those unqualified to practice. Another argument supporting government regulation of professionals is that consumers are vulnerable and helpless and are not knowledgeable enough or competent enough to make informed and appropriate choices (Gross, 1977; Holcombe, 2003).

The Pew Taskforce on Health Care Regulation, recognized the critical role of regulation in consumer protection, but noted the goal of establishing standards to protect consumers may be obscured by an unspoken goal of protecting the professions’ economic advantages (1995). Stigler (1971) argued that a profession will seek to limit entry into its ranks to increase its profitability. However, in ND after 17 years of requiring a baccalaureate degree for licensure in ND, there was not a higher salary for more education. The average starting salary in 2006 for a new graduate with a two-year

associate degree RN was \$16.69 per hour versus \$16.46 per hour for a nurse with a four-year baccalaureate degree (Moultan, 2006, September).

Gross (1984) argued that licensing laws exacerbate shortages, create barriers to practice, restrain competition, and inhibit the development of new technologies and skills. Administrators of health care facilities viewed the entry into nursing educational requirements in ND as a barrier to practice, citing ND as the only state that required a baccalaureate degree to be licensed as an RN and an associate degree to be licensed as an LPN. The lack of uniformity among states for entry-into-practice requirements has mounted criticism within the health care system (Furrow, Greaney, Johnson, Jost, & Schwartz, 1995; Safriet, 1992). This lack of standardization has created barriers to interstate mobility among professionals making it difficult for professionals to practice when they move to another state.

The Pew Health Profession Commission Report, entitled *Reforming Health Care Workforce Regulation: Policy Considerations for the 21st Century*, issued in 1995, called for sweeping changes in health professions regulation in the United States. One change the commission called for was to standardize entry-into-practice requirements and limit them to competence assessments for health professions to facilitate the physical and professional mobility of the health professions.

Nursing Program Approval/Accreditation

Since the establishment of licensing boards, the licensing laws usually included the right of the controlling boards to monitor the educational process preparing for an occupation. For nursing, the laws established across the nation regulating nursing provided the means for approval of training schools by the board of nurse examiners.

Approval of nursing programs in ND occurred in 1915 with the creation of the Board of Nurse Examiners the forerunner of the Board of Nursing, at which time the legislative assembly gave the Board of Nurse Examiners the authority to approve nursing programs (Paulson, 1979). The licensing laws created a minimal type of accreditation commonly referred to in the law as “approval” and without this approval, the school could not operate (Hinsvark & Dosch, 1979). Graduation from a state-approved school was a prerequisite for entrance to an examination administered by a board of nurse examiners (Carroll, 1979). The National Council of State Boards of Nursing (NCSBN) defines approval as the “official recognition of nursing education programs which meet standards established by the board of nursing”(National Council of State Boards of Nursing [NCSBN], 1994, p.2).

For most regulated health professions, the licensing board defers the program approval process to private, voluntary organizations that accredit educational institutions or professional programs. In many cases, the accrediting programs are integral parts of the national health professional associations. The NCSBN views this accrediting process as “the official authorization or status granted by an agency other than a state board of nursing” (NCSBN, 1994, p.2).

When national nursing organizations began to accredit nursing education programs, boards of nursing continued their approval process of nursing programs using the legal standards of nursing education that were found in the various nursing practice acts and administrative rules. This resulted in a dual process for reviewing nursing programs. Nursing programs began questioning the efficiency and cost effectiveness of the dual system. Support for nursing program’s accreditation status from an accrediting

agency started gaining support for continuing program approval rather than having a separate and distinct review by the board of nursing (NCSBN, 1998).

According to the NCSBN (1998) there are three main mechanisms used by boards of nursing for approval of nursing education programs.

1. Separate and distinct mechanism: The board of nursing grants initial and continuing approval of nursing programs based on the board's separate and distinct review of the nursing education program.
2. Accreditation Recognition mechanism: The board of nursing grants initial approval based on the board's separate and distinct review, and grants continuing approval on the board's recognition of national nursing accreditation as a criterion for continuing approval for those programs that choose to be nationally accredited. Boards of nursing retain their authority for program approval. For those programs not accredited, the separate and distinct mechanism would apply.
3. Non-involvement mechanism: The board of nursing is not involved in the approval process; another agency approves nursing education program (NCSBN, 1998, p.2).

Most boards of nursing use a distinct and separate mechanism to grant initial and continuing approval for nursing education programs. According to the NCSBN (1998) approximately 10 boards of nursing recognize national nursing accreditation as a criterion for continuing approval. In 2002, 54 boards of nursing approved basic RN educational programs; two jurisdictions were not involved with the approval process and used the Department of Education for the approval process of RN educational programs

(Crawford & White, 2002). A distinct and separate mechanism is used in ND to grant initial and continued approval of nursing programs.

Hinsvark and Dorsch (1979) pointed out the legal requirement for a university or a college-nursing program to be approved by the board of nursing creates a potential problem. Asserting, “an issue here is created by the conflicting legal jurisdiction of the university through its state charter and the legal jurisdiction of the state board of nursing over the same nursing program” (p. 377). This situation is further complicated whenever the state board of nursing has the right to exercise control of nursing services that are under the jurisdiction of another state department. Since most of the nursing programs in ND were in state institutions of higher education, the NDNA used this rationale to move the approval of nursing programs to the ND Board of Higher Education.

CHAPTER IV

RESEARCH DESIGN AND METHODOLOGY

It wasn't curiosity that killed the cat. It was trying to make sense of all the data curiosity generated. Halcolm

This chapter puts in context the selected methodology of inquiry for this study. The research design is a case study guided by Kingdon's multiple stream theory. A general description of case study design is discussed including research design, data collection, and data analysis procedures used.

Study Design

A single case study approach is used to study HB1245 which was introduced in the 2003 58th ND Legislative Assembly that rescinded the requirement of a baccalaureate degree for entry-into-practice. Case study is the preferred strategy when "how" or "why" questions are being posed and when one seeks to understand the particular outcomes of an event when the investigator has little control over events that occur within its natural context (Yin, 2003). The questions in this study included Why was HB1245 introduced? What events prompted the introduction of House Bill 1245? Who were the key actors during the legislative process? What was the understanding of HB1245? And what factors influenced the passage of HB1245?

The purpose of this study was to trace the events and debates that created changes to NDCC 43-12.1 ND Nurse Practices Act during the 2003 Legislative Session.

The events leading to and the debates that culminated with the passage of this legislation mark a specific point in nursing history in ND and warrants close examination.

The unit of analysis for this research is HB1245, a bill, introduced at the request of the NDNA in the 2003 ND Legislative Session. The unit includes critical policies and decisions leading to the introduction of HB1245, the development, passage, and outcome of HB1245 during the 2003 ND Legislative Session. To bound the effort, the research focuses on the factors leading to the introduction of the bill and the formulation of the policy process. To further bound the research, the time interval of interest is the period of policymaking activity since 1985. This interval begins with the rule changes in 1985 to the ND Nurse Practices Act, which required baccalaureate degree for entry into practice for a registered nurse.

Case studies generally form the first phase of an in-depth policy analysis and include the background of the problem, the perceptions of the significance of the issue in a policy context, description of the issue, analysis of the issue and development and analysis of possible solutions (Dunn, 2004). Case study research has proved particularly useful for the analysis of policy formation. In describing the strengths of this type of research, Lincoln and Guba (1985) noted that case study research facilitates an understanding of human action and interaction within given contexts. Because a change process is fundamental to policy analysis, case studies are, according to these researchers, “better able to assess social change than more positivistic designs” (p.33).

Stake (2000) noted a case study to not be a methodological choice, rather a choice of what to study. Stake (1978) stated that a case study gives understanding and every-day life perspective to a specific system by gaining knowledge from the experience. Stake

stated, “the case is a specific, complex, functioning thing” (p.2). “We are interested in it, not because by studying it we learn more about other cases or about some general problem, but because we need to learn about that particular case” (p.3).

The real business of case study is particularization, not generalization. “We take a particular case and come to know it well, not primarily as to how it is different from others but what it is, what it does” (Stake, 1995, p. 8). There is emphasis on uniqueness, and that implies knowledge of others that the case is different from, but the first emphasis is on understanding the case itself.

Yin (2003) maintained that a single-case design is justified when dealing with an extreme case, testing a well formulated theory, or is the revelatory case. Legislation passed in the 2003 ND Legislative session rescinding the requirement of a baccalaureate degree for entry-into-practice which existed since 1987 may be considered rare and worth documenting and analyzing thus lending itself to the single-case study research method.

Strength of case study research is the opportunity to use many different sources of evidence. Yin (2003) lists six sources of evidence for data collection in the case study protocol (a) documentation, (b) archival records, (c) interviews, (d) direct observation, (e) participant observation, and (f) physical artifacts. Not all need to be used in every case study. One of the most important uses of documents is to corroborate evidence gathered from other sources. Interviews are also important sources of case study information. The interview could take one of several forms: open-ended, focused, or structured. In an open-ended interview, the researcher can ask for the informant’s opinion on events or facts. This serves to corroborate previously gathered data.

The case study method, with its use of multiple data collection methods and analysis techniques, provides the researcher with opportunities to triangulate data in order to strengthen the research findings and conclusions (Yin, 2003). Johnson and Christensen (2004) support the need to include a detailed, in-depth data collection involving multiple sources rich in context. Strauss and Corbin (1998) also stress multiple sources is not simply a matter of triangulation but is essential in developing detail. According to Stake (1995), triangulation of multiple data sources assists in demonstrating that we are “observing and reporting carries the same meaning when found under different circumstances” (p.113).

Interviews

Informant interviews are one of the most important sources of case study information. Interviewees may propose solutions or provide insights into events. Maxwell (1996) stated “interviewing can be a valuable way (the only way, for events that took place in the past or ones to which you cannot gain observation access) of gaining a description of actions and events” (p.76). A qualitative research interview seeks to cover both factual and a meaning level (Kvale, 1996). Siedman (1998) explained that interviewing provides a way for the researcher to understand the details of the participant’s experience from their point of view. Yin (2003) believed the interview is the most important source of case study information. The interview provides the opportunity to inquire about the “why” of a particular process.

Informant Selection

Purposive sampling was used for this study. According to Patton (2002), purposive sampling is the selecting of information-rich informants from which one can learn a great deal about matters of importance and therefore worthy of in-depth study. Rubin and Rubin (1995) suggested identifying a variety of perspectives and then interviewing one or more informants from each perspective.

For this study, I selected informants based on the group they represented, the positions held by the informants and the role they fulfilled during the 2003 legislative session. Selectively interviewing informants provided a way to discover that I could not observe directly or find in documentation. These informants could share their perspectives and accumulated knowledge about HB1245.

Gaining Access

Gaining access to participants was not a problem for me. Hammersley and Atkinson (1995) explained that, "Access is not simply a matter of physical presence or absence. It is far more than a matter of granting or withholding of permission for research to be conducted" (p.56). They further explained that sponsorship of the researcher may occur through "existing social networks based on acquaintanceship, kinship, or occupational membership" (p.60). Access to the participants was gained, in part, through the mutual professional association I had with the participants.

Individuals invited to participate included the legislative sponsors of HB1245 and representatives from the NDNA, the NDBON, the ND Organization of Nurse Executives (NDONE), the College and University Nursing Education Administrators (CUNEA), the NDHA, and the NDLTCA.

Consent

Prior to starting the interviews, this study was submitted to and approved by the University of ND Institutional Review Board. The study used voluntary respondents and no coercion was used to attain participants. A letter was sent to invited participants introducing myself and explaining the purpose and nature of the study and participants were ensured confidentiality. An enclosed consent form (see Appendix D for consent form) provided an overview of the study as well as the risks and benefits of participation.

Thirteen individuals of the 20 invited participants returned signed consents indicating willingness to participate. Respondents included two legislators, five representatives from NDNA, two representatives from NDBON, two representatives from NDONE, and two representatives from CUNEA. Invited representatives from the NDHA, and NDLTCA did not respond to the invitation. A follow-up phone call was made to inquire if they received my invitation and if they were interested in participating. Both groups indicated they received my invitation but chose not to participate.

I contacted each individual who returned the consent to participate by phone and arranged a time to conduct the interview. I met with the participants at a mutually agreed upon location that was both neutral and comfortable. All of the interviews occurred from June 2004 through July 2004. All interviews were face-to-face and lasted from 45 to 90 minutes.

Protecting Confidentiality

To ensure confidentiality, the informants' names were not used in the analysis of this study. Rather, each informant was given a code number. Regarding confidentiality in a case study Yin (2003) argued that the most desirable option is to disclose the identities

of the informants because the reader is able to recall any previous information they have learned about the case and the integration of a new case study with prior research could be invaluable. However, in this study anonymity was essential. Nursing education reform remained a controversial topic at the time of this study. Many of the informants are still in their positions and much of the material was sensitive, and anonymity of informants was justified and guaranteed in presentation of data analysis. Names of informants were not used in the data analysis but each informant was asked to provide a brief background description. The 13 informants provided the following biographical information (Biographical data were transcribed verbatim).

Representative Todd Porter (R District 34)

I was a co-sponsor of HB1245. I also sat on the House Human Services Committee that took testimony and made a recommendation to the full body on HB1245. I supported the passage of HB1245. I have been involved in pre-hospital medicine since 1978 having become a Paramedic in 1981. I have served in the ND House of Representatives since 1999 on the Human Services Committee.

Representative George Keiser (R District 47)

I was the prime sponsor of HB1245. I have served in the ND House of Representatives since 1993. I chaired the House Transportation Committee from 1993-1997. Currently, I chair the House Industry Business and Labor Committee. At the time of HB1245 I served on Medcenter One Health Systems Board of Directors. Prior to coming to Bismarck I was employed at the Regional Medical Center at University of Utah in the Biostatistics Lab and Poison Control Center.

Karen Latham PhD R.N.

I am the Provost/Dean of Medcenter One College of Nursing. I have been a nurse for 29 years, 19 years as faculty or administration in baccalaureate nursing education. I was involved in HB1245 as a member of CUNEA (College and University Nursing Education Administrators); we opposed passage of the bill.

Dr. Mary Ann Marsh PhD R.N.

I am both the Chair of the department and an Assistant Professor of Nursing. I have been a nurse for 28 years. I have been a faculty member since fall 1988. I testified on behalf of CUNEA (College and University Nursing Education Administrators) in the support of maintaining the high standards of nursing

education to both the Senate and House committees. I also was an active member in CUNEA's other efforts to defeat the legislation and the efforts of the local NDNA organization that I was a member of. The university nursing faculty group that I work with was also actively involved in our local area and with our area legislators as the history unfolded.

Melana Howe RN

I have been in nursing since 1976. My original education in nursing was in a 3 year diploma program. I have since acquired a BA and graduate degree, but not in nursing. I am the Chief Nurse Executive at West River Health Services in Hettinger, ND and have been in this role as the Administrative nurse since 1990. I was not living in ND at the time of the initial 'Entry into Practice' legislation, however, I have witnessed its turbulent life while employed in the state.

Evelyn Quigley MSN, RN

At Merit Care, I was the lead Senior Executive on the strategies for our position on HB1245. Merit Care developed testimony that was presented at the Committee on Health and Human Services Committee in the House and amended the bill to ensure that Nursing Education remained the jurisdiction of the NDBON. I represented NDONE on the collaborative that NDNA sponsored with specialty organizations. I can't recall the formal name---it followed a national alliance. The group was called together in November, prior to the legislative year and never convened again.

As Chair of NDONE, I educated the members regarding the bill and developed a position paper regarding support for the NDBON having jurisdiction for nursing education and practice.

As a member of the NDNA Council on Nursing Research, I created a speaking paper regarding the outcomes of baccalaureate education on patient care.

Sharon Moos, RN, MBA

I have been a registered nurse for 30 years. I hold an MBA from the University of ND and a baccalaureate from Montana State. I am the Executive Administrator of the ND Nurses Association. I have served in this position since 1996. I have served as a lobbyist for the ND Nurses Association for five legislative sessions, which included the 2003 legislative session.

Penni Weston MSN RN

I am the Director of Health Services for a senior housing complex in ND. I am also the administrator of a Bismarck, ND Alzheimer's community and independent and assisted living community. During the time of my interview I was employed as the Administrator of a different assisted living and basic care facility. I have been a nurse for 24 years and a member of NDNA for 21 years. During the legislative session when HB1245 was introduced I was the Vice President of NDNA and served as a lobbyist for the organization.

Jo Burdick, MSN, RN

I am the Director of Merit Care Home Care, a role I have held for the past 15 years. I have been a registered nurse for 27 years and have a strong interest in public policy and how it affects the profession of nursing. I was the chair of the ND Nurses Association Government Relations Committee during the 2003 legislative session and was actively involved in discussions and action on HB1245.

Karen Macdonald MSN RN

I have been in nursing for 46 years, 43 years at the time of the bill (HB1245). Previous experience as faculty of a baccalaureate-nursing program, executive staff for the ND Board of Nursing, and public/community health. Member of NDNA since 1971, member of ANA since 1963. Family Nurse Practitioner in the Medcenter One Health Systems, during HB1245 a primary care practice in a rural community; now in a nursing home rounding program. Lobbyist for NDNA as well as secretary/treasurer of NDNA board of directors for 1999-2003 sessions. Assisted in draft language, obtaining sponsors, communicating with legislators and nursing organizations, and involved in the negotiations with nursing organizations on amendments for HB1245. Provided initial testimony when bill was heard, and responsive testimony as the bill moved through the legislative process.

Elizabeth Nichols DNC, RN

I have been in nursing for 42 years. Staff nursing, 10 years (orthopedics and operating room). I worked some part-time as I went to school during the academic year. A nursing faculty (no administrative responsibility) for 7 years at UCSF full-time and 5 years at University of Wyoming where I was part time (I worked 50% in the president's office and 50% faculty). I have been a nursing school administrator for 18 years: Department chairperson for 3 years; Dean at U of Wyoming for 4 years Dean at University of ND for 9 years and Dean at Montana State University for 2 years. One year I was on an administrative fellowship in Maine. I hope this all adds up! I do know my original graduation and licensure was in September 1964. I testified in opposition to HB1245 at the local (Grand Forks) legislative meetings, wrote letters/e-mails in opposition to it, testified in opposition to it in Bismarck at the committee hearings (on behalf of the College of Nursing at UND) - at that point I was not involved at the testifying level with NDNA.

Barb Ding RN

I am an RN and was the Director of Nursing in a long term care facility for 35 years. I was on the ND Board of Nursing for 4 years and was on the board at the time that HB1245 was acted upon. I have been a member of NDNA for over 35 years holding various offices. I am presently working part time as an RN.

Connie Kalanek PhD RN

I have been in nursing for 36 years. I graduated from Bismarck Hospital School of Nursing in 1970 with a diploma in nursing. In 1996, I received a PhD in Teaching and Learning in Higher Education from UND. I taught nursing for 17 years of my nursing career, nine years at Dickinson State College and eight years at Medcenter One College of Nursing. I have been the Executive Director for the North Board of Nursing since May 1998. This included the 1999, 2001, and 2003 legislative session. I was a member of NDNA from 1981-2001. I am involved in multiple statewide networks, related to nursing practice.

Interview Process

To help achieve validity of data collected during an interview Morse and Field (1995) recommended establishing rapport, explaining the study, and achieving openness. Formal introductions prior to the interviews were not necessary because I knew all of the informants from my involvement with the legislature or through the ND Nurses Association. However, I did review the letter sent earlier describing the purpose of the study and asked for approval to tape record the interview to ensure accuracy. I also ensured confidentiality. Finally, before starting the interview I asked if they had any questions before beginning the interview.

Rubin and Rubin (1995) suggested interviews be guided conversations rather than structured questions. Prior to the interview, I prepared an interview guide containing a set of brief general questions based on the research design to guide me through the interview. I used the interview guide to initiate the flow of conversation and to clarify the general areas about which the informant was asked. Using the interview guide I asked similar questions of each informant with slight modifications made for each different representing group. Sample questions used during the interview included: Describe the factors you felt prompted the introductions of HB1245. What was your understanding of HB1245? Describe what influenced the outcome of HB1245? What was your role

during the 2003 legislative session? Additional questions came to mind during the interview and were used to clarify or expand responses.

During the interview, I listened attentively and avoided using leading questions. Seidman (1998) noted that listening is the most important skill in interviewing. Yin (2003) stated being a good listener means “being able to assimilate large amounts of new information without bias” (p. 60). Besides being a good listener Gordon, (1975) stated the importance for the interviewer to demonstrate flexibility, intelligence, and emotional security during the interview. Flexibility enables the interviewer to keep the interview on course and to assume a passive or active role when necessary to facilitate communication. I demonstrated flexibility by encouraging each interviewee to answer all the questions freely and to ask questions as desired and by allowing each interviewee time to respond to the questions. An intelligent interviewer knows the objectives of the interview; probes for further information and can remember and evaluate the information given. I probed by asking, “...and then?Tell me more about that; What was that? I also responded with a neutral probe of “ummmm..., ‘hmmm...” and ‘I see...” to convey to the interviewee they had been heard. The emotionally secure interviewer is responsive to the interviewee’s emotional needs, communicates warmth, and makes the interviewee comfortable. Prior to starting the interview I spent a few minute engaged in some social talk; this developed a rapport and set a relaxed tone before the formal interview began. During the interviews, I was very conscious of my body language and tried not to nod my head in agreement or disagreement to the informants’ response to questions. I also was conscious to avoid leading questions during the interview process.

All informants openly discussed their perceptions as to why HB1245 was introduced and what occurred during the legislative process. At the end of each interview, I asked each informant "Is there anything else you would like to add?" This final question provided informants an opportunity to expand on the discussion in areas of their choosing and close out the interview. At the conclusion of several interviews, the informant thanked me for the opportunity to share their story. One informant related it was a cleansing process.

Archival and Document Data

According to Yin (2003), documents play an explicit role in doing case study research by corroborating and augmenting evidence from other sources. For this study I used multiple document sources for data generation. Archival and document sources included; newspaper clippings, correspondence, anecdotal notes, memoranda, e-mails, minutes of meetings, and written reports filed with NDNA and NDBON. Archival sources included statutes, formal testimony, legislative committee minutes, and written correspondence on HB1245, and legislative files relating to amendments to the NPA dating back to 1915.

To obtain statutes, or codified law, bills, legislative hearing minutes, testimony and correspondence, I went to the ND Legislative Research Council Library, located on the third floor of the ND State Capitol. I made copies of all the testimony and correspondence on HB1245 introduced in the 2003 legislative session and Senate Bill 2114 (2001) introduced in the 2001 legislative session. I also read, took notes, and made copies of relevant testimony and minutes from other bills amending the NPA including legislative files dating back to 1915.

I sent a letter requesting permission to access documents and correspondence pertaining to HB1245 to the NDNA, the NDHA, and the NDLTCA. The NDNA was the only organization to grant me permission to review their documents and correspondence. Documents from the NDHA and the NDLTCA would have been very informative, but permission to review the documents was denied. Neither the NDHA nor the NDLTCA gave me a rationale for not granting permission except they informed me they would rather not provide the documents related to HB1245. Only verbal permission was necessary to obtain documents and correspondence from the NDBON because the board is under ND Century Code (NDCC) 44-04-18 open records law.

Staff from the NDNA, the NDBON, and the Legislative Council Librarian was very accommodating. The NDNA and the Legislative Council Librarian provided me an area to review the documents and a place to copy requested documents. NDBON provided me a three ring binder with all of the collected documents related to HB1245.

Due to the extensive amounts of datum gathered during a study, Creswall (2002) recommended the researcher organize the vast amount of information by creating file folders, index cards, or computer files. As I gathered the data, I placed each document in a three ring binder according to data type (a) documents from the NDNA, (b) documents from the NDBON, (c) legislative testimony and correspondence, and (d) notes I compiled during data collection. Each piece of data were placed in chronological order within each category. From the data, I created a time-ordered matrix (Miles & Huberman, 1984) of the events which permitted me to determine causal events over time.

Data Analysis

“Analysis begins during a larval stage that, if fully developed, metamorphoses from caterpillar-like beginnings into the splendor of the mature butterfly” (Patton, 2002 p.432). The analysis for a case study is one of the least developed aspects of the case study methodology. The researcher needs to rely on experience and the literature to present the evidence in various ways, using various interpretations (Yin 2003). There are two basic strategies for analyzing case study data: 1) developing a case description (whether purely descriptive or exploratory) and 2) employing the theoretical propositions on which the study is based to explain the case (Yin, 2003).

Content analysis, analytic induction, constant comparison, and phenomenological analysis are approaches that can be used to analyze the qualitative data for exploratory/descriptive cases. Each mode of analysis is different but the purpose of each approach is to examine, categorize, tabulate, or otherwise recombine the evidence to determine whether evidence from various sources intersects on a particular set of facts. The theoretical orientation strategy uses a predetermined theoretical perspective or framework to guide the case analysis (Yin, 2003). Pattern matching is used to compare a priori predicted pattern derived from theory with an observed pattern to see whether the patterns conform.

Early in the analysis process, I found that I was struggling to get my arms around the massive amounts of data and I needed to somehow make more sense of the data. As I searched for an answer to this dilemma, I realized using John Kingdon’s policy streams model as a theoretical framework was an ideal place to start. Kingdon (1995) concluded that public policy is the result of policy participants’ effort to couple three policy streams;

(a) problems, (b) policies, and (c) politics into a window of opportunity where they are then able to transform ideas into acceptable alternatives that become public policies.

Using Kingdon's multiple streams as a framework I began going through archival documents, and interview transcripts. I used different colored markers to code them according to problem, policy, and politics. I compared Kingdon's multiple policy stream model with the pattern I observed and noted to see whether the patterns conformed. The information gathered was used to create a concept map that became a focus of an in depth analysis related to Kingdon's multiple policy streams model. Figure 2 displays an interfacing concept map between Kingdon's multiple policy streams: problems, political actors, and policy alternatives. The first column represents the problem stream, which identifies incidents, focusing factors, and feedback that influence the attention of policymakers. The second column represents the political stream, which includes organized political forces, made up of interest groups. The third column represents the policy stream. The policy stream includes policy options or alternatives suggested by interest groups to address the problem. The arrows illustrate the interfacing connections between the three streams. Lastly, a window of opportunity was created by the introduction of HB1245 that changed policy. Application of Kingdon's multiple streams theory to HB1245 is fully discussed in Chapter V.

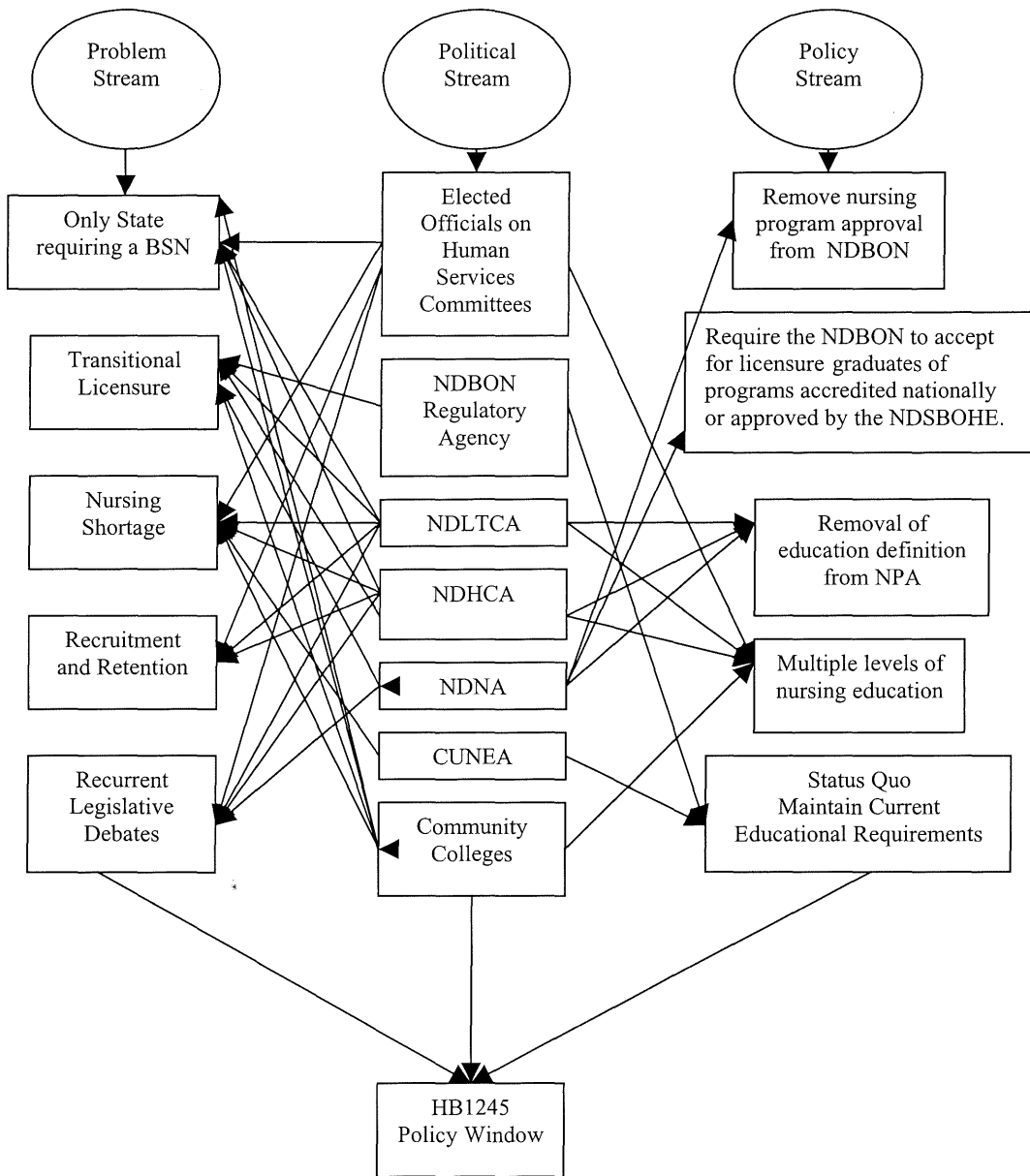


Figure 2. Interfacing Concept Map of the of Kingdon's Multiple Streams

Next, I began the process of gathering codes from the interviews and documents. I began the analysis by using the constant comparative method credited to Glaser and Strauss (1967). This process included coding data by category, comparing meanings across categories, refining categories, exploring relationships and patterns across categories, and integrating the data to develop “an understanding of people and settings being studied” (Maykut & Morehouse, 1994, p.135). The goal of constant comparative method is to discern conceptual similarities, to identify themes and develop, refine, and show relationships between concepts (Tesch, 1990, p.96). This goal is accomplished through the simultaneous processes of coding and analyzing data (Taylor & Bogdan, 1998)

Uncovering patterns, themes, and categories by the researcher requires making carefully considered judgments to determine what is really significant and meaningful in the data (Patton, 2002). According to Lincoln and Guba (1985), the essential task of categorizing is to bring together into temporary categories those data units that appear to relate to the same content. Data are organized by grouping like with like: data bites with data bites. Once categories are developed and organized by groupings of like data with like data, the data are compared looking for patterns or variations in the data.

Initially I read and re-read all of the documents, archival material, and interview transcripts, and listened to the audiotapes. During this process, I started to recognize persistent words, phrases and themes (Morse & Field, 1995; Lincoln & Guba, 1985; Maykut & Morehouse, 1994). Glaser and Strauss (1967) emphasized the importance of becoming immersed in the data, so that embedded meanings and relationships can emerge.

Next, I started the coding process. The task of coding becomes one of identifying these words, passages, or paragraphs for later retrieval and sorting (Morse & Field, 1995). I went through the data line-by-line, paragraph-by-paragraph and highlighted words of interest and wrote categories in the margin. Once a detail catches the researcher's interest, that detail must be given a name or code. "The name may be taken from the words of respondents themselves" (called "in vivo codes") (Strauss & Corbin, 1998, p.105).

Glesne (1999) commented coding is a progressive process of sorting and defining pieces of collected data and putting the pieces together to create a framework. Maxwell (1996) called it " 'fractur[ing]' the data" (p.78). The names for the categories were developed from the data itself as well as from the research questions, interview guide, and Kingdon's multiple streams model.

To sort the data, I used the cut and paste method. I cut each labeled paragraph and taped the relevant passage onto larger sheets of paper. Then I sorted these portions of text into common piles. This in-depth coding process gathered and identified over 45 codes including such words as disappointment, dejected, painful, and hopeless. Codes also included confusing and ever changing. The code words initially were placed into three major categories. The first group of codes included criteria related to the reactions nurses had to the introduction of HB1245. The second grouping of codes included criteria related to the tension between the NDNA and the NDBON. Criteria for the third grouping of codes included the legislative process of HB1245. I placed the codes into three major categories (a) Reactions to HB1245, (b) Tension, and (c) HB1245: Confusing and Complex. Within each category, three themes emerged that answered my initial research

question about why the NDNA introduced HB1245. The themes and supporting data led me to form the following assertions: (a) the members of the NDNA did not understand the rationale for HB1245 and felt disenfranchised after fighting for 17 years to maintain entry-into-practice; (b) tension grew between the NDNA and the NDBON resulting in the introduction of a bill by NDNA in response to the NDBON for changing the rules for a transitional licensure that allowed a non baccalaureate degree prepared nurse licensed in another state to practice in ND without ever obtaining a baccalaureate degree; and (c) HB1245 was ever changing, with multiple turns during the legislative process that made it very difficult for nurses and legislator to understand and follow. The third theme included a sub assertion that NDNA members and legislators did not understand HB1245.

Figure 3 outlines the data analysis process. The first column contains the final code words. The second column displays the three major categories created from the codes. The next section describes the themes that emerged from the categories and the final column includes the conclusion.

Trustworthiness

A criterion of trustworthiness includes credibility. Credibility is the extent to which the findings accurately reflect the views of the respondents (Lincoln & Guba, 1985). It parallels internal validity. For this study, there was a determined attempt to generate credibility. I approached credibility in several ways. First, there was prolonged engagement where I took time to generate an understanding of the context of the subject matter. In theory, this extends experience with the phenomenon being examined,

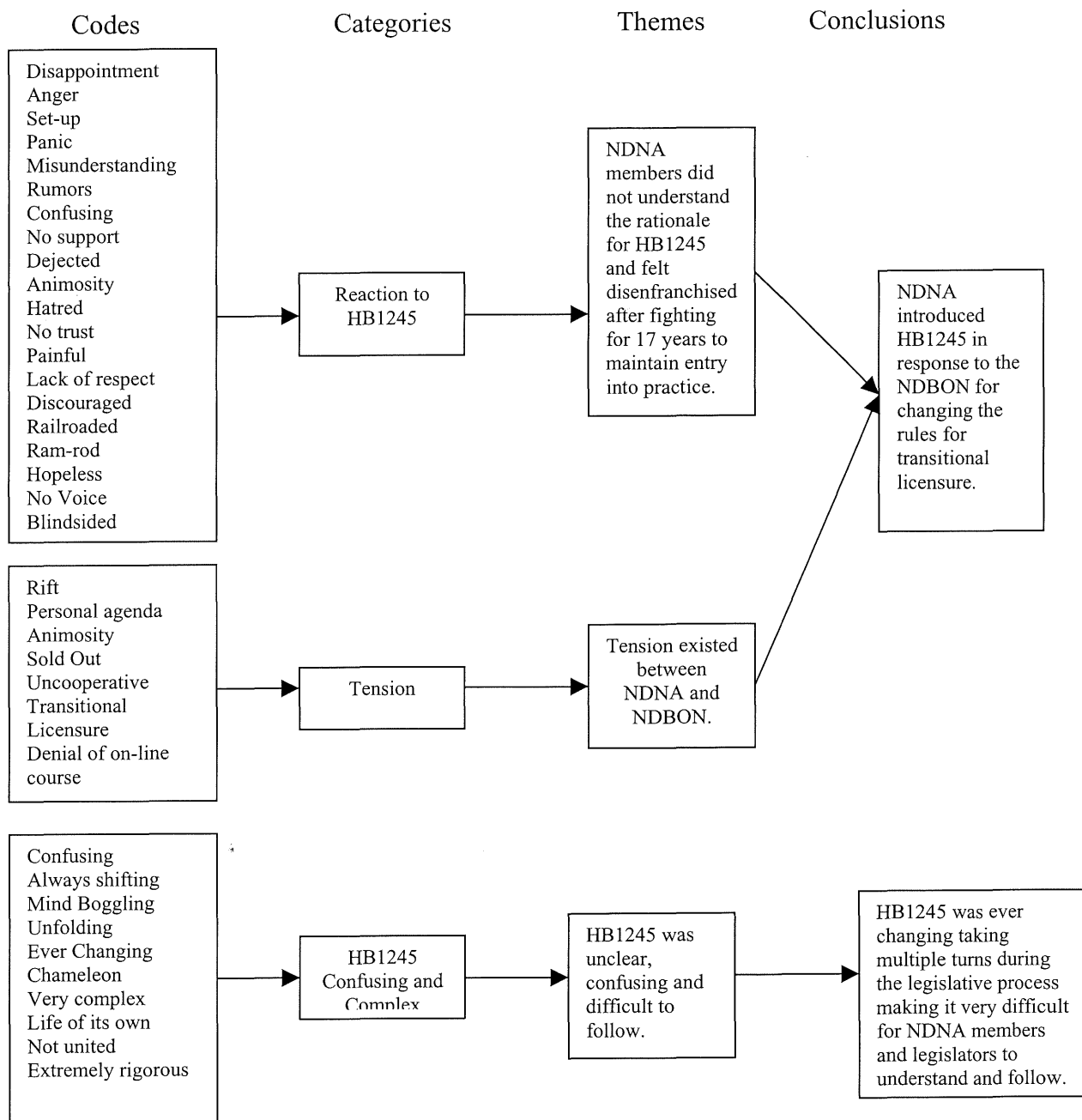


Figure 3. Data Analysis

minimizing distortion in results and produces a depth of knowledge. This study involved interviews of 13 purposefully selected informants, each lasting an average of 60 minutes. Then the interviews were transcribed and subjected to coding and categorizing. Coding became another prolonged engagement with the data.

To supplement prolonged engagement, triangulation added to credibility. Triangulation involved matching data through other sources and by other methods. For this study, triangulation was provided through the use of documents, archival record and informant interviews. I compared the perspectives of people from different points of view, those of legislators, and individuals who supported HB1245 and individuals who did not support HB1245. The use of several sources of data increases credibility. I also used member checking to enhance credibility. Member checks are seen as “the most crucial technique for establishing credibility” (Lincoln & Guba, 1995, p.314). I shared analytic categories, interpretations, and conclusions with five informants. I selected informants from the NDBON, the NDNA, and CUNEA who both supported and opposed HB1245. The informants reviewed the findings and made comments on the accuracy of the study’s overall findings. All five informants felt the interpretations were “right on”. One informant stated the results “resonated” with her. One of the advantages of conducting member checks at this point is that more is known about the phenomenon and the researcher can present a detailed and organized document for the respondents to critique. At this stage, the researcher can also receive feedback “at a higher level of inference” than can be accomplished through the review of individual interview transcripts (Miles & Huberman, 1994, p.276).

Another characteristic of trustworthiness is transferability. Transferability is the extent to which study findings can be generalized to other settings. The use of thick description in the presentation of findings certifies its transferability. This detailed description of the experiences of the informants and the context of the data will assist a reader in judging the extent to which the findings can apply to other persons in other settings (Lincoln & Guba, 1985). This case study has produced results that are credible for the context involved. The question of whether such results can be transferred to other similar contexts, or to all contexts, is for others to judge.

CHAPTER V

PRESENTATION OF FINDINGS

“Change is stressful enough even when people are well prepared for its demands. Action imposed on people who are not adequately prepared can become intolerable.”
Prochaska, Prochaska & Levesque (2001, p. 258)

The purpose of this chapter is to present the findings of this study. This chapter is divided into two sections. The first section discusses the findings related to Kingdon’s multiple streams model. Each stream; problem, politics, and policy, is discussed separately as it relates to HB1245. The next section presents the three thematic findings based on informant interviews, and archival and documentary data.

Kingdon’s Multiple Stream Model

Problem Stream

A natural question that emerges in any consideration of the policy process is; what exactly is the problem to be addressed and how is the problem defined? Perceptions of a problem can differ according to individual and ideological viewpoints. Kingdon cited indicators, focusing events, and feedback as important factors influencing attention to a problem (Kingdon, 1995).

Indicators

An indicator is a common measurement to determine if a problem is growing enough to gain the attention of policymakers. In this case, the nationwide nursing shortage was an indicator. In 2000, the national supply of full-time equivalent nurses was

estimated at 1.89 million while the demand was estimated at 2 million, a shortage of 110,000 or 6 percent. The shortage was predicted to grow slowly until 2010, by which time the shortage would increase to 12 percent. In 2000, 30 states were estimated to have a nursing shortage. ND was not one of the states identified with a shortage. However, by 2020 ND was estimated to have a shortage of 1,921 nurses (U.S Department of Health and Human Services [USDHHS] 2002, July).

In 2000, there were nearly 7,700 licensed RNs in ND; more than 7,000 were employed in nursing. The number of RNs increased 11% between 1988 and 1996 while the state's population decreased 1% (USDHHS, 2001, September). In 2002, 27 of the 53 counties in ND had less than 8 RNs per 1,000 people. The counties of Slope, Billings, Dunn, Morton, and Benson had less than 3.4 RNs per 1,000 people. Conversely, fourteen counties in ND had over 10 RNs per 1,000 people. The nationwide average is 7.8 RNs per 1,000 people (Center for Rural Health, 2003, Fall). In 2002, ninety-six percent of the licensed RNs in ND were employed; however, forty-four percent of the licensed RNs worked only part-time (NDBON Data Report, 2002). In 2001 over 75% of the currently licensed nurses were educated in ND and practiced in ND (NDBON, Data Report, 2002).

Legislators, rural health care administrators and long-term care administrators pointed out the nursing shortage as a barrier to recruiting nurses. On January 21, 2001, Representative Glen Forseth (R 6) testified before the Senate Human Services Committee on SB2241 (2001), a bill to repeal the educational standards for nursing, declaring:

I believe the shortage of nurses in ND has reached the critical stage...especially in rural ND. Many of our care facilities are being forced to leave beds empty because they cannot find nurses to adequately staff their facilities. Not a day goes by that we cannot pick up any newspaper in the state and see ad after ad in the help wanted columns for nurses of all degrees. Daily news media across the state

carry story after story about the shortage of nurses. Just recently, Jan. 11th in fact, the Bismarck Tribune carried a headline story crying "Nursing shortage is getting worse"...the story noted that 40 percent of nursing homes have stopped admitting new residents due to shortage of nurses and certified assistants (Forseth, 2001, no pagination).

Shelly Peterson, NDLTCA President, also expressed concern about the nursing shortage. She testified on March 7, 2001 before the House Human Services Committee on SB2114 (2001) claiming,

As you may be aware, long-term care is in a nursing crisis...Currently we have 1,000 open positions in nursing facilities across the ND. The top vacant position is certified nurse assistant (CNA), with RNs and LPNs second. Two-thirds of the nursing facilities term themselves in a staffing crisis and in 2000, two out of every five nursing facilities voluntarily stopped admissions because of insufficient staff to care for residents. For nursing facilities, LPN turnover is 24% and RN turnover is 33% (Peterson, 2001, no pagination).

The NDNA countered the nursing shortage by responding that ND ranked third among all states in the number of RNs per 100,000 residents. In 1999, ND had 1,072 RNs per 100,000 residents, well above the national average of 798 per 100,000 (USDHHS, 2001, September). The NDNA indicated facility administrators believed their problem with recruitment of nurses is a shortage when in fact, in ND, geography and working conditions play a much more significant role in the current interpretation of a nursing shortage. Clarifying, in ND 65 percent of the RNs live in four major urban areas (Fargo, Bismarck, Grand Forks, and Minot) with another 10 percent clustered in the Dickinson, Williston, and Jamestown areas (NDBON Annual report, 2001). Twenty-five percent, of ND's RNs live in rural areas and of that 25 percent many choose to drive longer distances to an urban facilities because of better pay and benefits and guaranteed work hours. For rural health care facilities, location can be translated into "nursing shortage" (Nichols, 2001; "The ND nurse", 2001).

From 2000 to 2002, ND ranked 48th in population and the population had decreased by 1.3%. In 2004, ND continued to rank 48th in total population and had the second lowest population growth between 2003 and 2004 (ND Data Center [NDSDC], 2005, May). Fifty-six percent of the population in ND lives in non-metropolitan counties, while 49% lives in the four major populated counties. From 1950 to 2000, the rural population in ND declined from 73.4% to 45.4% while the urban population rose from 26.6% to 54.6% (NDSDC, 2003). According to the NDSDC (2001), ND has the fastest growing cohort of people over the age of 85 years of age and older. From 1990 to 2000 this group grew by 32%. ND has the 17th oldest median age in the nation, 36.2 years compared to 35.3 years nationally, and 45 of the 53 counties in ND had median ages higher than the state median. Between 2000 and 2004 the age of those ages 75 to 79 increased by 5.5 percent and those 85 and older increased by 11.5 percent (NDSDC, 2005 September).

During the 2003 legislative session Dr. Helen Melland, NDBON President, testified before the Senate Human Services Committee arguing that HB1245 will not help the nursing shortage in ND emphasizing,

In fact, the shortage of nurses is not as acute in ND as elsewhere. The U.S. Department of Health and Human Services in 2002 did not even label ND as a shortage state. I understand there are unfilled nursing positions especially in rural ND settings, but I believe those vacancies have as much to do with rural, economic issues as nursing issues. (Melland, no pagination, 2003)

In 2003, ND began to experience a nursing shortage of about 500 RNs and 200 LPNs with a predicted shortage of about 2,000 nurses by 2012 (Moulton, 2003, October). Reasons given for the shortage included aging of the workforce, decline in relative salaries, an aging population, healthcare financing issues, and an uneven distribution of

demand by employment setting. In ND, the median age of nurses in 2000 was 36.2 while the national average of an RN in 2000 was 45.2 years. In 2001, the average age was 44 years for an RN (HRSA, 2003).

Focusing Events

Focusing events promote increased problem awareness on a much larger case. Several focusing events were evident in this case. A major focusing event was that ND was the only state in the United States requiring a baccalaureate degree to be licensed to practice as an RN. Other focusing events included the transitional license and access to education.

Only State

In 1987, when the nursing education standard requiring a baccalaureate degree became a law in ND, it was believed by the American Nurses Association, national nursing leaders, and nurses in ND that other states would follow suit. In 1987, Maine, Oregon, and Montana were also pursuing entry-into-practice requiring baccalaureate degree, however, they were not successful. By the 1990s entry-into-practice was not considered a priority by ANA and ANA no longer worked to obtain their initial 1987 goal of having 10% of the states requiring a baccalaureate degree for entry-into-practice. The national nursing shortage and workplace issues took priority. ND remained standing alone and it became more difficult to continue to convince the legislative assembly to continue supporting entry-into-practice.

In 1997 at the hearing on SB2304 (1997), a bill to repeal the educational standards for nursing in ND, Senator Dan Wogsland (D 23), sponsor of the bill, declared ND was an experiment site for nursing education and that the baccalaureate degree made

ND an island and created a severe nurse access problem. He testified before the Senate Human Services Committee on January 29, 1997 asserting,

SB2304 seeks to change the degree requirements for nurses in the state of ND to conform with the nursing degree requirements of the other 49 states of this country...In essence, we are turning the clock back 12 years to end an experiment in the nursing industry that has made ND an island in stringent and excessive standards that have not brought about betterment in patient care...but brought about a severe access problem to nurses in the border cities and rural areas in the State of ND. (Wogsland, 1997, no pagination)

During the hearing Senator O'Connell (D 6), co-sponsor of SB 2304 (1997), explained that nursing homes asked for this bill. Stating, "They are hard pressed for nurses".

(Senate Human Services Committee minutes, 1997, January 29).

Another legislator felt ND nurses did not uphold their end of the deal, because ND nurses promised other states would follow.

ND legislators put us into a four-year degree program. We were promised, literally promised by the nursing group that brought the four year program forward that all states were going to a four year program. That we were at the cutting edge. That by doing this it would not in any way harm the state. In hindsight, which is 20/20, no other state had gone, only ND is out there. So, what we had was an interesting dilemma. We had great nurses graduating from great programs and we had no other state following us.

One legislator summed it up by stating:

When ND was looking to be a leader, no one else has followed. If we're going to be leading the parade, we better look behind us and see if anyone is marching behind us. And nobody has. (Legislature approves, 2003 p. B5)

Standing alone for 17 years without any other state following was making it difficult to continue receiving support from legislators. After debating entry into practice in six legislative sessions the patience of legislators was beginning to wane. One informant cited a senator, who presented on a panel at the 2002 NDNA Annual Convention:

Legislators are extremely tired of dealing with nurses on this issue [entry-into-nursing practice]...you [nurses] need to come together, you need to solve this problem because the legislators are very tired of dealing with it [entry-into-practice].

Over the years, nursing home administrators testified before ND legislative sessions stating ND was the only state requiring higher educational standards than any other state. The administrator of the Wahpeton Health Care Center, and President of the ND Long Term Care Association testified before the Senate Human Services Committee on January 29, 1997 asserting;

When the requirement for a four year and two-year degrees for the RNs and LPNs was first enacted, it was assumed that the rest of the country would follow. This has not happened. ND has remained the only state...ND is a very rural state, and we do not have the population to support such stringent qualifications. (Hoeft, 1997, no pagination)

On January 22, 2001 Kimber Wraalstand, President and CEO of Presentation Medical Center located in Rolette County testified on SB2241 (2001) before the Senate Human Services Committee emphasizing that:

ND is the only state, THE ONLY STATE (capitalization for emphasis), in the United States and the provinces of Canada that requires the education standards of a Registered Nurse to be BACCALAUREATE (capitalization for emphasis) degree and the education requirements of an LPN to be a two-year Associate Degree. The State of ND and its citizens should no longer remain an island in regard to nursing education standards...Again, I ask you, why is ND acting as an island? (Wraalstand, 2001, no pagination)

The NDNA contended no harm has come to ND for being the only state requiring a baccalaureate degree for entry-into-practice. The NDNA stressed citizens of ND deserve the best-prepared nurses. On behalf of the NDNA Elizabeth Nichols, NDNA board member and Dean of the College of Nursing at the University of ND testified on

January 22, 2001 on SB 2241 (2001) before the Senate Human Services Committee

emphasizing:

This requirement (BSN for entry) has not hurt ND, in fact, it is a success story. I have many opportunities to visit with nurses in other states and each time, we are praised for having these standards. As our population ages, as health care becomes increasingly complex, as individuals must be very ill to enter the health care system, it makes no sense to reduce the educational requirements. It is not a service to the citizens to give them lesser-prepared nurses when they need the best. (Nichols, 2001, no pagination)

Transitional Licensure

Another focusing event was the issue of transitional licensure. In 1985, when the NDBON changed the education requirement rules to the NPA requiring a baccalaureate to be licensed as a RN and associate degree to be licensed as a LPN there was no intent by the NDBON that all currently licensed nurses to hold an earned degree. The NDBON was cognizant that a license is a property right and could not be taken away except for due cause. Nurses already licensed were grandfathered under the new rule. What the NDBON did recommend was a systematic approach to education and licensure for nurses of the future. First, by 1989 all nursing programs in ND would offer either a baccalaureate degree leading to an RN licensure or an associate degree leading to an LPN licensure. Second, a nurse licensed in another state after 1989 without a baccalaureate degree or associate degree applying for a license in ND would be issued a “temporary” license. In 1995, the temporary license was renamed “transitional” license. To be re-licensed a nurse issued a transitional license was required to demonstrate progress toward obtaining the required degree.

Initially, an RN issued a transitional license was given four years to complete a baccalaureate degree and an LPN was given two years to complete the associate degree.

Completing the required degree in the given period became too difficult for some nurses. The NDBON recognized the need for some nurses requiring additional time to complete the appropriate degree. This need was addressed by amending the NPA during the 1995 legislative session. SB2192 (1995) was introduced at the request of NDBON. SB2192 (1995) amended the NPA by removing the time limitations from the NPA. Removing the time-frame from the law gave the board flexibility to establish an individualized program of study for each nurse.

In spite of the individualized program of study allowing more time for nurses to complete the required degree, long-term care administrators continued to express the transitional license created recruitment problems, especially for health facilities along the border cities of ND. Administrators of rural hospitals and long-term care facilities located along the borders insisted the transitional license made it difficult for them to recruit and retain registered nurses. One administrator of a community nursing home stated in testimony on January 29, 1997 SB2304 (1997) before the Senate Human Service Committee.

Professional staffing is very tight and when there is illness or time off others have to work long hours and many days. So we advertised in all the local papers, in the bigger city papers in ND, in papers outside of ND, even outside the Country, and even word of mouth... We were able to hire one Native-American RN who had received a two-year diploma in Minnesota. But she did not stay with us and work towards earning a four year degree when she found she could work for Indian Health Service as an RN and would not have to earn a degree since they (Indian Health Service) do not have to comply with ND law. Another response came as a result of our ads from out of the Country. An RN from 75 miles away in Canada responded, was interviewed, was offered a position, and went home to start paperwork. When we checked the progress a short time later, we found that the RN had accepted employment in another State-not for the money- but because there was no trouble obtaining a license with a diploma and working as an RN with no hassels [*sic*].(Peak, 1997, no pagination)

Another administrator along the border testified before the Senate Human Services Committee on January 29, 1997 declaring,

This ruling impacts the border cities strongly because of the ability for nurses to find jobs in adjoining states with less stringent educational requirements. Our facility has gone through two and three year search for qualified nurses to fill our LPN and RN positions. We have had numerous inquiries from out of state nurses, but when they find they have to go back to school, they are no longer interested. (Hoeft, 1997, no pagination)

In testimony given January 29, 1997 on SB2304 by Shelly Warner (Peterson), NDLTC President asserted,

This is not an issue of professional standards, or of turning back the clock of time in the nursing profession. This is an issue of removing one (underlined for emphasis) barrier, that currently exists when a nurse moves to ND and is barred from work unless they have a bachelor's degree/associate degree or is willing to return to school. For most individuals mid-career schooling is simply not an option. ...some (nurses) with extensive years of experience and distinguished work records, find themselves arbitrarily barred from work in ND only because of the stringent education requirements specific only to our state. Nevertheless, facilities are frustrated because ND is the only state with the bachelor and associate degree requirements. Not because this is an ideal standard, but because the standard is impossible for some to meet. We believe we need to create an environment that invites nursing professionals into ND rather than setting up disincentive, that for some is a complete road block. (Warner, 1997, no pagination)

Some individual nurses felt the transitional license created barriers for nurses without a baccalaureate degree and did not take into account their work experience. They also expressed returning to school was costly and the material being taught was redundant. On January 21, 2001, Sheila Weiler RN testified on SB2241 (2001), a bill to reduce educational requirements for nurses, before the Senate Human Services declaring,

I graduated with an Associate's Degree of Science in Nursing (ASN), in 1995. After moving to Kansas, I worked in a regional hospital on a medical surgical unit. Nine months after starting this job, I became a charge nurse for my unit. After moving to Denver, Colorado, I worked on an orthopedic unit, and after two months I was a charge nurse and preceptor for my unit. I then accepted a job in acute renal dialysis. These patients are often very critical, and need specialized

care...Two years later, I moved back to Bismarck, where I worked in the Medcenter One RDU (Renal Dialysis Unit) for two and on half years. I have been the clinical care coordinator of the RDU for the past year and a half. I was offered this position ahead of RNs with 20 years of experience, 12 of that in the RDU, and ahead of RNs with baccalaureate's. I would like to tell you how the current law affects my life. I know[sic] have to go back to school to finish my BACCALAUREATE degree...I spend part of two days a week attending classes for information and skills that I already have...School will cost me roughly \$3,000 to \$4,000...I also sacrifice time with my family, and have postponed buying a house...These classes will not further my career, but only allow me to keep doing the job I am currently doing. In Colorado I was making approximately \$60,000 a year. Now, I am required to go to school and make less money. (Weiler, 2001, no pagination)

In 2001, the NDBON licensed 8,392 RNs and 3,179 LPNs. This included 295 transitional RN licenses and 179 LPN transitional licenses. Sixty-four transitional RN licenses expired or lapsed in 2001 and 15 completed the educational requirements and transferred to a permanent RN license. From September 1989 through July 2003, the NDBON issued a total 962 RN transitional licenses and 564 LPN transitional licenses. (NDBON Transitional Licenses data base, nd).

To address the difficulty-recruiting nurses requiring a transitional license the NDLTCA partnered with the NDBON to amend the NPA. In 2001, SB2114 (2001) was introduced at the request of the NDBON. In negotiation, NDLTCA and the NDBON agreed to give the nurse issued a transitional license another option to be re-licensed besides obtaining the academic degree. At the request of NDLTCA the NDBON proposed amending SB2114 (2001) to remove the educational requirement for a transitional license and replace it with 30 continuing education hours. The relationship between the NDLTCA and the NDBON became clear during the hearing on SB 2112 (2001), when Representative Devlin, (R 23) Vice Chair of the Human Service asked Shelly Peterson, NDLTCA President the following question. "Shelly, are you more

comfortable leaving the 30 hours in (the bill) or you okay with just leaving it wide open and leaving it with the board? Shelly responded, “We [NDLTCA] are very comfortable with 30 hours. We have a very positive working relationship with the Board of Nursing. We have a greater comfort when we know what the law says”. Arnold Thomas, NDHA President, also responded to the question stating, “We agree with the Board of Nursing decision” (House Human Services minutes on SB2114, 2001, March 7).

Roger Gilbertson M.D., President and CEO of Merit Care and Evelyn Quigley RN, Senior Executive and Chief Nursing Officer of Merit Care, Fargo, ND, and Melana Howe RN, from West River Regional Medical Center Hettinger, ND testified in support of continuing education as an option for re-licensure for nurses issued a transitional license (House Human Services minutes on SB2114, 2001 March 7). In a letter from Roger Gilbertson and Evelyn Quigley dated March 5, 2001 sent to Representative Clara Sue Price (R 40), Chair of House Human Services Committee, they expressed the following:

It is our belief that a DO PASS VOTE (capitalization for emphasis) on SB2114 would provide for the transitional licensure needed to provide incentive for nurses in border communities to begin practicing in ND. It would allow time to address the long-term need for solutions rather than a dramatic dismantling of a system of excellence in nursing.

No evidence was found in the Legislative Council files on SB 2114 (2001) indicating the NDNA opposed the amendment offered by the NDBON to remove the educational requirement for a transitional license. However, one nurse informant described how she was informed about the amendment being offered by the NDBON by pointing out,

NDNA was not apprised that that was the move the Board [NDBON] was taking. They [NDNA] had no idea that was happening. And actually, I got caught by surprise at the Capitol because Shelly Peterson [NDLTCA, President] handed me the draft of the proposed rules for the implementation of allowing out of state graduates to come in. She said, 'does this look OK to you?' I said, 'I've never seen it, where did you get it?' She said, 'the Board of Nursing faxed it to me.' And I said, 'I just can't believe that they would support this because this basically gets rid of part of entry and I can't believe they support that.'

Access to Education

Another concern expressed by the NDLTCA, healthcare staff, and rural health care administrators was the lack of education opportunities for rural residents to obtain a nursing education. Kandace Albaugh, a certified nurse assistant (CNA) indicated she wanted to advance in the health care field by becoming an RN. However, she preferred attending a two-year nursing program rather than a four-year program and she and her family considered moving across the border to South Dakota to attend a two-year registered nurse program. Kandace testified before the Senate Human Services Committee in support of SB 2241 (2001) to lower the educational requirement for an RN stating,

I have come to the time in my life where I would like to advance in the healthcare field as an RN. I'am [*sic*] aware that other states offer a 2 year RN diploma. Whereas I would prefer to reside in ND, as lifetime resident, My family and I are considering moving across the border to SD where there is a 2 year diploma course work offered....I believe the focus needs to be on education, financial, and organizational factors. I also believe by supporting the 2 year RN diploma courses at community and junior colleges in ND this would draw attention of the media and public eye improving the perception of the nursing profession....I also believe that other health care faculty [*sic*] workers would take more interest in upgrading their knowledge and skills in the nursing profession with the 2 year course, because it would be more practical time and financial wise. (Albaugh, 2001, no pagination)

Rural healthcare facility administrators indicated they supported staff to further their education and they believe in the philosophy of "grow your own" and have worked

together to provide education opportunities for their staff. This was supported in testimony on SB2241 (2001) by Jerry Jurena, administrator of Heart of America Medical Center, Rugby, ND, who pointed out before the Senate Human Services Committee on January 22, 2001 that,

Currently we have over \$80,000 on our books in school loans. We have also started an LPN program to meet our needs. This year a consortium of thirteen facilities have joined together to provided [*sic*] regional education to individuals who want to advance their careers. (Jurena, 2001, no pagination)

Another administrator, Kimber Wraalstad, President and CEO of Presentation Medical Center located in Rolette County, indicated they grow their own nurses.

We encourage individuals to pursue a career in nursing and provide assistance to those committed to the institution. However, if staff leave to attend school it takes them 3-4 years before they are able to come back and be added to the schedule. She added the length of time to become an RN takes too long and if an associate RN program were available for her staff to attend, that they would be able to increase their income by \$8,000 per year. (Wraalstad, 2001, no pagination)

In testimony before the House Human Services Committee Dr. Elizabeth Nichols, Dean of the University of ND College of Nursing, responded to the access of nursing education in ND by pointing out ND has an excellent system for nursing education with articulation between levels of education with credits readily transferable. She went on to describe that ND had an adequate number of nursing education programs including outreach programs to many smaller rural communities (Nichols, 2003).

To address the RN shortage and access to education the Good Samaritan Society developed a plan to “Grow Our Own” RNs from currently employed loyal staff. In 2001, the University of South Dakota (USD) and Good Samaritan Society’s Distance Learning Network submitted and received a \$772,000 federal grant to expand the USD’s Internet nursing curriculum to provide an online associate degree RN program to Good Samaritan

nursing home employee in ND, South Dakota, Minnesota, Iowa, Nebraska, and Kansas. According to Dr. Neal Eddy, Vice President for Learning and Strategic Integration with Good Samaritan Society the funding through the Rural Telemedicine Grant Program will give Good Samaritan employees the opportunity to advance their education, but will help nursing homes deal with a national nursing shortage (Treven, 2002). Employees are able to participate in general education courses delivered via the Good Samaritan Society's satellite Distance Learning Network, and through the Internet. Nursing courses are delivered to students via the internet with "clinical" practice facilitated by organizing cohort student groups according to geographic location. Upon completion of the general required courses, and clinical nursing courses, students are awarded an associate degree in nursing from The USD Department of Nursing. The USD Department of Nursing is an NLN (National League for Nursing) accredited program.

Several Good Samaritan affiliated nursing homes in ND wanted to participate in this online nursing program. However, the NPA administrative rules did not recognize associate degree RN programs in the state, and students enrolled in the program could not obtain clinical practice in ND. To address this issue, Dr. Clay Jensen, Vice-Chair of the Good Samaritan Society; Glenice Darwin, Director of Nursing at Arthur, ND Good Samaritan Center; Terry Goehring, Administrator at Bottineau, ND Good Samaritan Center; Shelly Peterson, President of NDLTCA, and June Larson, Chairperson of the Department of Nursing at USD, approached the NDBON during the September 2002, board meeting. They requested permission for students enrolled in the program in ND be permitted to do their clinical experience in ND. Dr. Jensen informed the board that experience has proven that investing in people residing in the community is effective, and

he hoped the board would become a part of this project (NDBON 2002, September 19-20, 2002 Minutes).

The NDBON questioned the availability of clinical experience in areas such as obstetrics and psychiatry, lack of qualified faculty, and the number of in-state nursing programs already using regional health centers in ND for clinical experience. The board also indicated the students would not be eligible for license by examination in ND and they would need to become licensed in South Dakota by examination. The NDBON denied the request from the USD for students enrolled in the USD distance associate degree RN program to receive clinical learning experiences at healthcare facilities in the state of ND based on the fact that the NPA did not allow the NDBON to approve associate degree RN programs in the state (NDBON 2002, September 19-20 Minutes). For an associate degree RN program to be approved, a change in the NPA needed to occur.

Another problem addressed by Dr. Thigpen was the out migration of ND students who attend out of state colleges to pursue nursing. On January 22, 2003 Dr. Thigpen, testified as a former nurse, not as the President of Bismarck State College, before the ND House Human Services Committee on HB1245. She indicated students from ND were leaving the state to attend colleges in bordering states to obtain an associate nursing degree for a registered nurse. She stressed,

Based on the 2002-2003 Reciprocity Report, last year 200 plus students left ND to go to school in Minnesota to pursue an associate degree in nursing. These 200 students are eligible to take the license exam to become RNs. We are losing students and we require twice the time and money for ND students to become registered nurses. Changing the degree requirements would hopefully help us to retain those students in ND and maybe they would help alleviate the nursing shortages in the 20 small towns where some of them grow [*sic*] up. We currently

require a four-year degree in ND. If they choose to return to ND, they can be licensed here by paying a fee and taking less than one week of additional training [30 hours to be exact]. (Thigpen, 2003, no pagination)

According to the 2002-2003 Reciprocity Report from the ND Department of Career and Technology Education (NDDCTE), 201 students from ND indicated nursing as their major. Two students were enrolled at Northland Technical and Community College in Thief River Falls, Minnesota, and 199 were enrolled at Northwest Technical College, with campuses in Bemidji, Moorhead, Detroit Lakes, East Grand Forks, and Wadena, Minnesota, and by distance education.

During the 2002-2003 academic year Northland Technical College offered a 54 credit hour practical nurse diploma program. After completing the practical nurse program, the graduate could seek to enter Northland's associate degree RN program (Northland Community & Technical College Catalog, 2000). The Northwest Technical Community College offered a 65 credit associate in applied science practical nurse program (Northwest Technical College Catalog, 2000). Of those students from ND attending Northwest Technical College, 76 were from Fargo, 60 from Grand Forks and 14 from West Fargo, ND. The remaining 49 students came from 35 different cities in ND (NDDCTE Reciprocity Report, 2002-2003). Students graduating from the Northwest Technical College AASPN program were eligible to take the LPN national licensing exam in ND.

Another issue of concern was the enrollment of students in the state's nursing programs. There was a decline in enrollment after the implementation of the new educational requirements in 1987. This was partly due to the decrease in nursing programs leading to licensure as an RN from eleven to seven.

In 1983 through 1986, the four years prior to the implementation of the new educational requirements, associate degree education accounted respectively for 19% of the enrollment in nursing programs in ND in 1983, 20% in 1984, 16% in 1985, and only 12% in 1986. During the same period, diploma programs accounted for 27% of the enrollment in nursing programs in the state in 1983, 25% in 1984, 22% in 1985, and 11% in 1986. The decline in 1986 illustrated the fact that the diploma programs had anticipated the change in educational requirements and stopped admitting students. Throughout this same period, the baccalaureate programs never had less than 54% of the enrollments in nursing programs in the state. From a low in 1983 of 54% to a high in 1986 of 78%, it can be seen that baccalaureate-nursing education dominated in the state even without a change in the educational requirements. Prior to the January 1, 1987 rule requiring a baccalaureate degree to enter into professional nursing practice the state had eleven nursing programs leading to licensure as a RN. After the rule change, the number of programs went to seven. Table 1 displays 21 years of student enrollments in nursing programs leading to licensure as a RN (NDBON annual reports 1984-2005). It can be assumed the decline in enrollment from 1987-1990 is attributed to the change in educational programs. Enrollment continued to decline over the years until the 2002-2003 academic year. Several factors may have contributed to the lack of growth in enrollment, women having more educational options available to them and a decline in the potential applicant pool. From 2000 to 2005 the ND 12th grade public school enrollment decreased by 1,172 students (ND Department of Public Instruction, 2005).

With the predicted nursing shortage, nursing programs in ND began efforts to recruit students into nursing. In 2001-2002 academic year the enrollment increased by

138. From 2003 to 2004 another enrollment increase of 200 students occurred. These increases may be contributed to the recruiting efforts by the nursing programs to attract students into nursing and possibly job assurance upon graduation because of the shortage of nurses.

Feedback

Policymakers in ND receive constituent feedback on a regular basis in the form of letters, phone calls, or email. Additionally, officials receive information related to the systematic monitoring or evaluation of a program or agency. Combined, these sources of information often reveal problems, especially when increased levels of correspondence related to a particular issue are seen.

Table 1. Enrollment in RN Nursing Programs in ND from 1983-2005

Year	Total Enrollment in RN Nursing Programs in ND
1983	1385
1984	1263
1985	1231
1986	1105
1987	803
1988	788
1989	877
1990	913
1991	1057
1992	945
1993	862
1994	880
1995	881
1996	812
1997	804
1998	720
1999	735
2000	722
2001	860
2002	895

Table 1.cont.

Year	Total Enrollment in RN Nursing Programs in ND
2003	881
2004	1081
2005	1098

An outcry from NDLTCA and rural hospital administrations led to substantial feedback to legislators, pointing out the educational requirements and transitional licensure created barriers and restricted recruitment and retention of nurses. This feedback began in the 1985 legislative session when a heated debate occurred to remove the power from the NDBON to regulate nursing education. Following that session, educational requirements for nursing education was debated in every legislative session except for the 1999 and 2001 sessions. The issue heated up again in the 2003 legislative session.

Legislators received continual feedback on how the educational requirements created barriers to recruitment and retention. Long-term care administrators testified during legislative sessions that the educational requirements were not working and needed to be changed. During the 1997 legislative session a long-term care administrator testified,

This ruling impacts the border cities strongly because of the ability for nurses to find jobs in adjoining states with less stringent educational requirements. Our facility has gone through two and three year search for qualified nurses to fill our LPN and RN positions. We have had numerous inquires from out of state nurses, but when they find they have to go back to school, they are no longer interested. (Hoeft, 1997, no pagination)

Political Stream

The political streams as described by Kingdon is made up of three primary components; the public mood, pivotal political power shift resulting from an election shift in power and organized political forces inclusive of support/opposition patterns to agenda items. There was no major leadership turnover on the House and Senate Human Services Committee. Since 1997, Representative Clara Sue Price (R 40) and Senator Judy Lee (R 13) chaired the House and Senate Human Services Committees respectively, prior to 1997, both served as members on the House and Senate Human Services Committees. In 2001, there were a few newly elected members serving on the House and Senate Human Services who had not been involved in the debate related to entry-into-practice. Their influence was minimal.

Public Mood

Elected officials judge the public mood or climate from mail, personal interaction with their constituents, and media coverage. During the ND legislative session, the public can easily contact legislators through a toll-free number or by e-mail, and ND elected officials receive mail and interact with their constituents frequently during the legislative session.

One form of communication with elected officials is from organized forces conducting letter writing and telephone campaigns. During the 2003 legislative session, the NDLTCA and NDHA organized massive letter writing and telephone campaigns informing legislators of the shortage of nurses in their facilities and the need to remove barriers affecting the recruitment and retention of nurses. For example, on February 13,

2003, Shelly Peterson, NDLTCA President, and Arnold Thomas, NDHA Executive Director, sent a legislative alert on HB1245 to member CEOs stating,

We have been told that the bill (HB1245) as amended will only address the issue of entry into practice. Other than permitting the offering of a one-year LPN and two year associate degree in nursing, the roles and responsibilities of the Board of Higher Education and the Board of Nursing for nurse education are unchanged. Contact your representative in the House and enlist their support for amendments permitting one year LPN and two-year associate degrees in nursing to be offered in ND (Peterson & Thomas, 2003).

Soon after the legislative alert was sent by the NDLTCA and the NDHA, legislators began receiving numerous phone calls and e-mails from constituents to vote for HB1245 (J. Heitkamp, personal communication, February 25, 2003).

A second campaign by the NDLTCA and the NDHA occurred on February 17, 2003. The NDLTCA along with the NDHA sent a letter to all legislators urging legislators to support HB1245. The letter stated,

HB1245 is good for ND, the nursing profession and for those who want to pursue a nursing education. Most importantly, HB1245 is good for those who may need nursing or medical care. Your support of HB1245 as amended is requested.

Members of the House Human Services Committee also received e-mails and letters from nurses and nursing students to vote against HB1245. The House Human Services Committee received over 23 letters from students attending the University of Mary who sent letters in opposition to HB1245 (ND Legislative Council files on HB1245, 2003). On February 11, 2003, an e-mail sent to administrators and deans of nursing programs from the NDBON stated the members of the Human Services Committee were asked to disregard any letters written by student nurses on HB1245 because the nursing programs were requiring students to send e-mails and letters to their

representatives (NDBON, personal communication, February 11, 2003). During this time, the NDNA did not conduct a massive campaign to support HB1245.

Policymakers gauge the mood of their constituents through direct communication, and those who are the most vocal will definitely have significant influence. Support for an issue allows it to be pushed forward rise to agenda prominence, as in the phrase, “The squeaky wheel gets the grease” (Kingdon, 1995 p.150). Thus massive letter writing and telephone campaigns organized by the NDLTCA and the NDHA had a substantial impact on policymakers.

Organized Political Forces

The next component of the political stream is the organized forces that bring together the maneuvering and bargaining among all the actors who judge whether the balance of factors in the political stream favors action. Conflict and consensus is inherent among organized political forces. The primary organized forces involved in HB1245 included the NDNA, the NDBON, the NDLTCA, the NDHA, CUNEA, and the Presidents of two community colleges.

Prior to the 2003 legislative session, the NDNA entered into a series of conversations with various groups to discuss possible strategies for the upcoming legislative session. The NDNA attempted to build a coalition of support for proposed legislative strategies. On October 28, 2002, the NDNA invited representatives from nursing specialty groups in the state; this group was formerly known as the Nursing Organization Liaison Forum (NOLF), to a meeting in Fargo. Mary Smith, NDNA President opened the meeting with a review of actions during prior legislative sessions, and the ongoing political debate over entry into practice. She further described how

NDNA supported and defended the educational requirements and how now the changes to the transitional licensure requirement and how multi-state licensure had affected entry-into-practice. Smith shared that the NDNA perception was that “entry-into-practice” was lost during the 2001 legislative session when the transitional license requirement was replaced by allowing continuing education hours rather than requiring the nurse to obtain an academic degree to be re-licensed. Smith stated, “We cannot use the prior claim of ‘higher quality’ any longer”. President Smith reported the NDLTCA surveyed their members about reducing the educational requirements for entry-into-practice. According to the results there was a strong possibility that the NDLTCA would be introducing legislation in the 2003 session to change the nursing education requirements to include one year vocational LPNs and two-year associate degree RNs. President Smith also gave a historical review of why the NDBON has oversight for nursing education programs. She concluded by stating, “The sole purpose at this time of the NDNA is to move the debate regarding education qualifications outside of the legislative arena.” After her presentation, the group was provided several options to discuss

1. Do nothing, wait, and see what happens.
2. Take the full risk of defending the current educational standards through joint efforts of the NDNA and the NOLF organizations.
3. Introduce legislation that would
 - a. Require all nursing education programs in the state to have national professional accreditation and be governed by the State Board of Higher Education or have independent charters authorized the granting of degrees.

- b. Revise the nurse practices act to remove the duty of the NDBON to establish nursing standards and change the language to read that candidates of accredited programs would be accepted as candidates for licensure
- c. . From my personal recall there was no decision made by the nursing organizations at this meeting. As will be discussed, nursing was seriously fractured into separate networks rather than becoming a unified battlefront (NDNA, 2002, October 28, Summary of NOLF meeting).

On November 11, 2002, Dr. Thigpen, President of Bismarck State College, Shelly Peterson, NDLTCA President, Sharon Moos, NDNA Executive Director, Karen Macdonald, NDNA Secretary/Treasurer, and Penni Weston, NDNA Vice President met to review the discussion at the NOLF meeting and to discuss the need to keep nursing under control of nursing, and the NDNA's role in social policy development. During the meeting, Peterson, NDLTC President, requested more options for articulation between nursing programs. She requested a nursing education model that would allow an individual to enter as a certified nursing assistant (CNA), progress to a medication aide, then to an LPN that would test out with competencies that are uniform with an associate degree RN. Continuing education for transitional licensure, passed in the 2001 legislative session, was also discussed. Peterson, NDLTCA President, indicated there was no funding for continuing education and employers currently did not pay for continuing education for transitional licensees. Dr. Thigpen, Bismarck State College President

pointed out that over 300 students leave the state each year to enter out of state associate degree nursing programs (NDNA, 2002, November 11 Summary of meeting).

On December 5, 2002, Mary Smith, NDNA President; Karen Macdonald NDNA Secretary/Treasurer; and Kathy Weiss, NDNA staff member; met with Arnold Thomas, NDHA President; Shelly Peterson, NDLTCA President; Dr. Mary Ann Marsh, CUNEA President; Linda Knodel, representative of ND Organization Nurse Executive (NDONE); Char Bierema, NDNA Board Member representing ND Chapter of the National Association Directors of Nursing Administration / Long Term Care (NADONA/LTC); Dr. Donna Thigpen, representing the ND Board of Higher Education (NDSBHE); and Claudia Dietrich, NDBON member. The purpose of the meeting was to discuss possible legislative strategies for the upcoming legislative session. The following plan was outlined (a) flesh out details of bill language, (b) meet with representatives of higher education, (c) seek legal counsel for assistance in bill drafting, (d) discuss with staff from NDBON (NDNA has opposed board staff involvement because of potential conflict of interest, however the NDBON President has been invited to represent the NDBON at all meetings, and (e) emphasize that this is a “venue shift” (NDNA, 2002, December, Summary of meeting).

After the meeting, on December 19, 2002, members of NDNA board met with representatives from higher education to discuss support of proposed legislation to move approval of nursing programs under the Board of Higher Education. The higher education representatives indicated they could not offer support of the proposed legislation without the approval of the Board of Higher Education; however, they did not believe the Board of Higher Education would oppose it.

The organized forces returned to their respective organizations and reported on the December 5, 2002, meeting. On December 12, 2002, membership of NDLTCA reached consensus to support the NDNA sponsored bill that would remove oversight of nursing education out of the NDBON. The NDHA informed their members through the *NDHA Capital Views* (January 13, 2003), the NDHA legislative newsletter sent to NDHA members, that they were supporting legislation sponsored by the NDNA. The article titled, *MANPOWER: Nurse Entry into Practice* stated:

With the NDHA support, the Nurses Association will be sponsoring a bill changing entry into practice requirements. The bill will clarify the Board of Nursing's responsibility for regulating the profession and transfer to higher education officials responsibility for deciding the level of academic nursing education/training to be offered through ND's post secondary institutions.

This assignment of responsibility to the academic community for determining what levels of accredited nursing programs to offer the case with all other professional programs eliminated the prohibition of and in-state institution offering accredited one year LPN or two year RN program (NDHA, 2003, January 13, Capital View).

On January 16, 2003, the Board of Higher Education Chancellor's Cabinet met via conference call at 3:00 pm. Participating in the conference call was Chancellor Larry Isaak and the presidents of the state colleges and universities. HB1245 was on the agenda. The presidents had varied opinions on the bill. It was the consensus of the cabinet not to form a system-wide opinion and that when campus faculty and staff testify on HB1245, they announce that their testimony is based on their professional experience and that it is not the opinion of their campus, the ND University System (NDUS), or the NDSBHE (NDSBHE, 2003 January 16, Chancellor's Cabinet Minutes).

Other support for HB1245 came from the ND Medical Association (NDMA). A letter dated February 5, 2003 was sent to Representative Price (R 40), Chair of the House

Human Services Committee from the ND Medical Association (NDMA), informing the Committee that the NDMA held a combined meeting with its Board, House of Delegates, and Commission on Legislation on February 1, 2003, and they took a position to support HB1245 as introduced (ND Medical Association, 2003).

The work done by the NDNA to build support for the removal of the NDBON power to approve nursing program and move it to the Board of Higher Education was working. Coalitions were developing between the NDNA, NDLTCA, the NDHA, NDMA, and Dr. Thigpen, President of Bismarck State College.

Strained Relationships

The introduction of HB1245 by NDNA's Board of Directors infuriated members of NDNA and they felt they did not have a voice. A number of nurse informants expressed members of the NDNA did not know what was happening and were not informed. Members had no idea what was out there and what the board had just voted on...They were completely disenfranchised, completely." As Kingdon notes,

Part of a group's stock in trade in affecting all phases of policymaking...is its ability to convince governmental officials that it speaks with one voice and truly represents the preferences of its members. If the group is plagued by internal dissension, its effectiveness is seriously impaired (1995, pg. 52).

The introduction of HB1245 amending the NPA by the NDNA Board of Directors was viewed as an overreaction and a major misstep by a number of members and unit structures within the NDNA. A number of NDNA structural units and members requested the NDNA Board of Directors to withdraw the introduction of HB1245.

On January 2, 2003, the Chair of the NDNA Research Council sent a memo to the NDNA Board requesting the NDNA Board to delay action on submitting legislation to change the NPA. Another requesting that NDNA withdraw the proposed legislation was Marlene Batterberry, NDNA board member who sent a memo on January 20, 2003, to the NDNA Board requesting NDNA to withdraw HB1245. On January 30, 2003, the Grand Forks District Nurses Association voted non-support for HB1245 and requested NDNA to withdraw the bill. Yet another NDNA structural unit, NDNA Governmental Relations Committee, went on record opposing HB1245 and requested that NDNA stop their support of HB1245.

Nursing students, faculty and other nursing groups opposed HB1245. On December 12, 2002, faculty from Dickinson State University sent a letter to the NDNA Board expressing concern about the NDNA going forth with proposed legislation and not keeping the NDNA members informed. On January 27, 2003, the ND Emergency Nurse Association went on record to oppose HB1245. On February 6, 2003, Diane Fladeland, University of Mary, e-mailed the University of Mary Nursing Division regarding HB1245, encouraging rural nurses to call their legislators and for nursing faculty to contact grads asking that they contact their legislators to request a do not pass on HB1245 (Fladeland, D., personal communication, February 6, 2003).

A number of NDNA members wrote letters to their legislators and some provided testimony requesting legislators not support HB1245. Jo Burdick, an NDNA member, testified before the Human Services Committee stating,

The proponents of this legislation have not communicated any plans to work with the Board of Higher Education to advocate baccalaureate degree education for registered nurses and associate degree education for licensed practical nurses in

the state...Decreasing the educational standards of nurses in our state as their responsibilities increase is not the answer. This could mean a compromise to patient safety for the citizens of ND. I urge you as a committee to recommend a 'do not pass' for HB1245. (Burdick, 2003, no pagination)

Nursing faculty wrote and gave testimony in opposition to HB1245. Dr. Elizabeth Nichols, Dean of the University of ND College of Nursing sent written testimony to the House Human Services Committee opposing HB1245 stating, "I urge a do not pass recommendation for HB1245. If passed, this would effectively dismantle an effective system of nursing education. It would not relieve the nursing shortage. It would not advantage the health and welfare of NDns" (Nichols, 2003, no pagination). Allison Stull, nursing faculty member at Dickinson State University testified before the House Human Services committee pleading, " 'do not pass' HB1245 on behalf of myself and my nursing faculty colleagues at DSU" (Stull, 2003, no pagination). Sister Mariah Dietz, Chair of the University of Mary Nursing Division urged a do not pass on HB1245. (HB1245 House Human Services Committee minutes, January 22, 2003).

Two large health care facilities, Merit Care Health System, Fargo, and Altru Health System, Grand Forks, testified in opposition to HB1245. Both facilities expressed concern about the elimination of the NDBON's oversight and authority to approve nursing education programs and the affect this would have on patient safety. They pointed out HB1245 lacks the details necessary to adequately evaluate the full extent of its impact on nursing and healthcare (Gessler, 2003; Richard, 2003).

The NDBON opposed HB1245 expressing the need to protect the public, stating the mission of the NDBON is to assure ND citizens quality nursing care through the regulation of standards for nursing education, licensure, and practice. The NDBON

testified the removal of the board's oversight of nursing programs and transferring the oversight authority to the NDSBHE would be of grave concern to the NDBON and should be a grave concern to the citizens of ND (Kalanek, 2003, January 22).

The lack of unity among nursing was summed up by one informant who stated,

Because the NDNA and the NDBON were not on the same page, nursing was not presenting a united front. So, the legislators were hearing different things from the different nursing groups or what nursing needed and wanted. So, it made it easier for them to listen to the hospital association or the community college presidents (pause) people that weren't nurses (pause) on what was best for nursing in the state.

This demonstrated a lack of unification among nurses. If one accepts the proposition that "organized interests are heard more in politics than unorganized interests" (Kingdon, 1995, pg. 53), then the fractured status of nursing put NDNA at a disadvantage almost immediately.

Policy Stream

The policy stream includes disparate policy communities that produce alternatives and proposals subject to a selection process that separates the viable from the impractical. Policy alternatives and proposals to address the problem are usually "floated" around for some time and entrepreneurs are waiting for the right opportunity to present their proposal. When the right climate comes into existence, policy entrepreneurs, or those who exhibit a "willingness to invest their resources, time, energy, reputation, and sometimes money, in the hope of future return" (Kingdon, 1995, p. 122), attempt to "soften up" policy communities and legislators to accept their alternative or proposal.

Selecting Alternatives and Proposals

As stated earlier the supportive legislative environment for entry-into-practice was changing. Some legislators felt it was becoming more difficult to continue supporting ND's academic educational levels for nurses when no other state had followed. In addition, the ongoing debate before the legislature was beginning to wear on legislators. To address the changing environment, the NDNA developed a proposal they felt was the answer to the ongoing debate of nursing education before the legislature. The NDNA proposed moving control of nursing programs from the NDBON to the ND State Board of Higher Education. The NDNA's rationale for this proposal was to move the debate about nursing education outside of the legislative arena. Mary Smith, NDNA President, testified before the House Human Services Committee stating,

Nurses are the only licensed health care professionals in ND whose education requirements are the responsibility of a state licensing board. The professional education of physicians, pharmacists, occupational therapists, physical therapists as well as others is the responsibility of the higher education system and national professional accreditation organizations. (Smith, 2003, no pagination)

In the January 2003 issue of the NDNA's membership newsletter, *The Insider*, NDNA published,

In ND, regulatory agencies are subject to regular and routine legislative oversight. The NDBON is the only health care regulatory agency that includes oversight of professional education as part of its responsibilities." NDNA went on to state, "the risk is that higher education/individual universities or colleges may not continue to support the current education requirements" ("NDNA Board of Directors Approves", 2003).

Moving the control of nursing programs from the NDBON to the NDSBHE was a clear departure from established precedent and historical policy in ND. Since 1915, the NDBON approved nursing programs. In 1915, legislators gave the NDBON the authority

to visit and approve the hospital based training programs. Shortly after the legislature gave the board authority to approve programs, nursing programs were surveyed and approved by the board. Graduates of approved programs were allowed to “register” with the board and could be called “Registered Nurses.” The proposal of moving the control of nursing from the NDBON to the NDSBHE was also the first time legislators, and nurses had heard of this alternative.

Legislators and the nursing community expressed difficulty in understanding the proposal. A number of informants verbalized the bill drafted by the NDNA was vague and difficult to understand. “Most people didn’t understand it [the Bill draft]”.

“It was very confusing to me.” It wasn’t well thought out....” Another nurse informant said,

On December 11, 2002, we [NDNA Board of Directors] had a telephone call meeting of the board and there was a motion brought forward ...to bring something forward to try to make legislation of taking the oversight of nursing regulations away from the Board of Nursing. And that was the motion. The vote (pauses) we didn’t know how to stop the vote....The vote was 8-5. I think there were people who voted for it who had no idea what they were voting for.

One legislator informant stated,

I looked it over [the bill draft], it was, to say the least, a very complex piece of legislation the way it was originally written..., and it was tough to follow exactly what they were, what their goal was from the Nurses Association.

The CUNEA wanted the NDBON to retain approval of nursing programs. They opposed any change to the educational requirement, arguing it was important to maintain the status quo to protect the public. CUNEA’s major concern was shifting the accountability of nursing education to the NDSBHE, or accrediting agencies and the removal of the definitions of levels of nursing education for licensure in ND from the

Nurse Practices Act. In testimony before the House Human Services Committee CUNEA Chair, Marsh stated,

This is not the time to be lowering nursing education standards...the Board of Nursing standards for nursing education are more stringent than those of national accrediting agencies. If this bill passes, and accountability is shifted to the State Board of Higher Education (NDSBHE) or national accrediting agencies, it is unclear what will happen to these current standards. (Marsh, HB1245, 2003, January 22, no pagination)

The NDBON disagreed with the removal of nursing programs from the Board of Nursing stating,

The removal of the NDBON oversight of the nursing education programs from the Board and transfer the authority to the ND Board of Higher Education is of concern to the Board and should be of concern to the citizens of ND...The mission of the BON is public safety. One way this mission is accomplished is through the approval process of nursing education programs in the state. (Kalanek, HB1245, 2003, January 22, no pagination)

Shelly Peterson, NDLTCA President, testified in support of HB1245. Peterson testified that this was the first time NDLTC and the NDNA joined together in supporting legislation affecting nursing. She commented what a relief and pleasure it was to be on the same side as the professional association representing nursing. She testified the primary purpose for supporting HB1245 was to work with the Higher Education System in ND to promote additional educational opportunities to achieve RN and LPN status indicating our members want more options for becoming a nurse (Peterson, 2003, January 22).

Arnold Thomas, NDHA President also testified in support of HB1245 stating,

HB1245 gives higher education officials the option of offering not only a four year nursing program, but also a two year nursing program, or other programs that meet national standards. This flexibility will help the state meet its future manpower challenges in the area of nursing (Thomas, 2003, January 22).

The NDLCTA and the NDHA had spent years “softening up” policy communities and legislators with their proposal of removing the educational requirements for entry into nursing in ND and making the nursing educational requirements in ND equal to the other 49 states. The softening up had produced some central agreements on the desirable approaches. The NDLTCA and the NDHA advocated for multiple educational level for licensure and removal of the transitional licensure. As the nursing shortage increased and recruitment of nurses in the rural area became more intense, the NDLTCA and the NDHA became more vocal. They were very clear with their message to legislators. In 2003, two community college presidents, Dr. Donna Thigpen, President of Bismarck State College, and Dr. Sharon Hart, President of ND State College of Science, Wahpeton, joined their bandwagon. Verbalizing her support of changing the education requirements for nursing, Dr. Thigpen testified before the House Human Services Committee, not as President of BSC, but as a former nurse, stating;

We currently have wonderful baccalaureate nursing education programs in ND and I personally believe, when possible, that a baccalaureate degree is a good route to licensure as a registered nurse. But it is not the only route. Many older, place bound individuals (mostly women) cannot devote the amount of time or money needed to pursue a four-year degree. There is another answer: the associate degree for RNs and a one-year degree for LPNs. This is the route in 49 other states. (Thigpen, 2003, January 22)

The collaboration of the NDLTCA, the NDHA and the NDNA was one of the first in the state concerning nursing education. The only other time I recall when the NDLTCA, the NDHA, the NDNA and the NDBON aligned themselves together was in 1993 when the NDBON had legislation introduced to extend the time-frame for nurses with a transitional license to obtain the appropriate academic degree. Senator Bonnie

Heinrich (D 32) was approached to sponsor a bill to extend the length of time to obtain the appropriate academic degree. The hearing on the bill was in the Senate Education Committee of which Senator Bonnie Heinrich (D 32) was the chair. After the hearing, the committee voted unanimously to approve the bill. I remember spontaneous clapping by all parties involved occurring after the committee vote. Chair Heinrich immediately called the room back to order explaining the clapping was "out of order." Lorraine Bourgois, NDNA President, explained to the committee that this was a time for celebration because it was one of the only times that these interest groups were all on the same page. Since that time, the NDLTCA and the NDHA were on opposing sides of NDNA.

Before passing HB1245 out of committee, the House Human Services Committee received multiple amendments to HB1245. Amendments came from different organized interest groups, including the NDBON, CUNEA, the NDNA, the NDHA, and Merit Care Health System, Fargo, ND.

The House Amendments

On February 4, 2003, the House Human Services Committee met to conduct committee work on HB1245. The committee reviewed amendments to HB1245 submitted by the NDBON, NDNA, NDHA, NDLTC and Merit Care. The committee took no action but Representative Price (R 40), Chair of the House Human Services Committee, directed the interest groups that brought forth amendments to meet to discuss the various amendments.

Sharon Moos, NDNA Executive Administrator, invited all the interest groups submitting amendments to HB1245 to a meeting on February 6, 2003. The purpose of the

meeting was to discuss various amendments and attempt to reach consensus on these amendments and the final language of HB1245. During the meeting each section of HB1245 was reviewed by the interest groups as they addressed the submitted amendments. Table 2 displays a side-by-side comparison of amendments to each section of HB1245 offered by NDNA, NDBON, and NDLTCA to HB1245. Column one displays the amendments offered by NDNA, column two are the amendments offered by the NDBON, and column three are the amendments offered by the NDLTCA.

The only area of consensus by all interest groups was to delete section one of the bill and return the authority for nursing education to the NDBON. Only partial consensus for the remaining amendments to HB1245 occurred between the interest groups.

The NDNA and NDBON agreed to remove the definition of transitional LPN and RN license from the NPA and remove the level of education from the definition for an LPN and RN. Prior to 1993, the level of education for RNs and LPNs was in the rules rather than in the NPA. The NDLTCA and NDHA did not agree with the NDNA and NDBON and wanted to amend the definitions for an LPN and RN by inserting the following in the NPA, a “Licensed practical nurse” means a person who holds a current license to practice in this state as a licensed practical nurse and at a minimum, holds a diploma or certificate of graduation, and a “Registered nurse” means a person who holds a current license to practice in this state as a registered nursing and at a minimum, holds an associate of arts degree in nursing. This amendment changing the definition of an RN and LPN offered by the NDLTCA and NDHA made it clear they wanted multiple levels for nursing education.

The NDNA and NDBON did not concur on the phrase “board-approved” in Section 3 of HB1245 (43-12.1-04. Exemptions). The NDNA did not want to retain the words “board-approved” as proposed by the NDBON because it would not allow out-of-state, innovative, or on-line programs targeting rural areas, specifically, the USD “Grow Our Own” on-line associate degree registered nurse program. The NDLTC did not address this section.

Another area of contention between the NDNA and NDBON was the licensure of out-of state-nurses. The NDNA and NDBON did not reach consensus on the license application process for nurses outside of ND. The NDBON wanted to retain the requirement that applicants for licensure by endorsement to practice as an RN or an LPN submit an official transcript showing completion of a nursing education program equal to or exceeding the requirements for nursing education programs in place in ND at the time the applicant qualified for initial licensure. This meant an RN must have a four-year baccalaureate degree and an LPN must have a two-year associate degree. The NDNA wanted to retain the original bill language requiring an applicant for licensure by endorsement to submit an official transcript showing completion of a nursing education program preparing for the level of licensure sought which allowed out-of state graduates be licensed without restrictions in ND. According to the NDNA, this allows licensure without prejudice to out-of-state programs (NDNA amendments, 2003). Retaining this language meant a nurse without the required academic education could be licensed in ND

Table 2. Side by Side Comparison of Amendments Offered to HB1245

NDNA Amendments	NDBON Amendments	NDLTCA Amendments
Section 1 – delete	Section 1 – delete	Section 1 – delete
<p>Section 2 – amendments #3. deletions in bill #7 deletions in bill</p> <p>#9. Delete</p> <p>#10. Delete</p>	<p>Section 2 – amendments #3. deletions in bill #7 deletions in bill</p> <p>#9 delete</p> <p>#10. delete</p>	<p>Section 2 – amendments #3. insert <u>“and at a minimum, holds a diploma or certificate of graduation.....”</u> #7. insert <u>“and at a minimum holds an associate of arts degree in nursing from.....”</u></p>
<p>Section 3. Amend as follows: Students practicing nursing as a part of a board approved-nursing education program <u>preparing for initial or advanced licensure as a registered nurse or licensed practical nurse and located in an institution of higher education that offers transferable credit.</u></p> <p>Section 4. #6. (agree to retain “education and”</p> <p>#7. <u>Establish standards for nursing education programs leading to initial and advanced licensure and approved such programs unless the nursing education is accredited by a national nursing program accreditation organization. If the program is accredited by a national nursing program accreditation organization, the board shall deem such programs as approved and may require periodic reports from the program during the period of accreditation.</u></p> <p>#8. <u>Identify and publish a list of national nursing program accreditation organizations recognized by the board for nursing education programs leading to initial or advanced licensure.</u></p>	<p>Section 3 Amend as follows: Students practicing nursing as a part of a board approved program <u>preparing for licensure as a registered nurse or licensed practical nurse or advanced practice registered nurse located in an institution of higher education that offers transferable credit.</u></p> <p>Section 4 #6. retain “education and” so the line reads “Establish standards for nursing education and practice and:</p> <p>#7. <u>Establish and approve standards for nursing education programs leading to licensure and collaborate with nursing education program approval/accreditation organizations.</u></p> <p>#8. <u>Identify and publish a list of national nursing program accreditation organizations recognized by the board leading to licensure.</u></p>	<p>Section 3 Not addressed.</p> <p>Section 4. #6. Not addressed.</p> <p>#7. <u>Accept for licensure the graduates of nursing education programs that are accredited by national nursing program accreditation organizations which are in academic settings and offer transferable credit, provided however, the board may not restrict nursing programs accredited by the National League for Nursing Accrediting Commission from being offered in this state.</u></p> <p>#8. not addressed.</p>

Table 2 cont.

NDNA Amendments	NDBON Amendments	NDLTCA Amendments
<p>#9. <u>approve for licensure the graduates of nursing education programs that are recognized by the board or are accredited by national nursing program accreditation organizations recognized by the board.</u></p>	<p>#9. <u>approve for licensure graduates of nursing education programs recognized by the board or are accredited by national nursing program accreditation organizations recognized by the board.</u></p>	<p>#9. not addressed.</p>
<p>Section 5. #1. Retain language in bill that deletes requirements for transitional license and allows the board to accept applicants for licensure that submit an official transcript showing completion of a board-approved nursing education program preparing for the level of licensure sought.</p> <p>#2. retain language for applicants for licensure by endorsement that requires completion of a nursing education program equal to or exceeding the requirements for nursing education programs in place in this state at the time the applicant qualified for initial licensure , <u>preparing for the level of licensure sought:</u></p> <p>#3. delete in it's entirety (provision for licensing an applicant by endorsement not meeting the education requirements by transitional license, renewal requires progression toward degree or 30 hours of continuing education.</p>	<p>Section 5. # 1. Retain original language.</p> <p>#2. Retain original language.</p> <p>#3. Retain original language for transitional license.</p>	<p>Section 5.</p> <p>#2. Retain original language.</p>

(NDNA, February 11)

without the appropriate academic degree or ever obtaining a baccalaureate or an associate degree.

Representative Porter (R 34) submitted an amendment to HB1245 requiring mandatory continuing education for all nurses to be re-licensed. The amendment stated the NDBON shall adopt rules requiring every nurse licensed in the state to fulfill continuing education requirements and all nurses, regardless of the type of nurse or level of education will be required to obtain continuing education for re-licensure.

On February 12, 2003, the House Human Services Committee met to discuss the amendments offered by the interest groups. Representative Price (R 40) stated, "The nurses can't come to an agreement"...In addition, I have not seen the amendments that were to be drafted." The committee meeting was adjourned (HB1245, 2003, February 12, House Human Services Committee minutes).

On February 17, 2003, the House Human Services Committee met to discuss the amendments to HB1245 prepared for Representative Devlin (R 23) by the Legislative Council. In the end, the following major amendments to HB1245 emerged from the House Human Services Committee:

1. Delete language on the Board of Higher Education returning approval of nursing education programs to NDBON.
2. Eliminate the educational requirement from the definitions of the LPN and the RN.
3. Eliminate the definitions of "transitional practical nurse licensure" and "transitional registered nurse licensure"

4. To allow students from out-of-state programs including on-line education programs to have clinical experience in the state.
5. To allow NDBON to establish standards for nursing education for new nursing programs until they receive national professional accreditation.
6. To require the NDBON to recognize out-of-state nursing programs accredited by the national league of nursing for nursing accrediting commission, or the commission on collegiate nursing education offering a nursing program in the state.
7. To have the NDBON adopt rules to require continuing education for all nurses to be re-licensed (HB1245, 2003, February 17, Human Services Committee minutes).

The House Human Services Committee voted 12-1 do pass on the amendments, Representative Weiland (R 13) voting against the amendments (HB1245, 2003, February 19, House Human Services Committee minutes). On February 19, 2003, HB1245 as amended passed in the House 65 yeas and 27 nays, 0 excused and 2 absent and not voting. Representative Keiser (R 47), prime sponsor of HB1245, and Wald (R 37) were absent and not voting. Representative Porter (R 34), co-sponsor of HB1245, voted against HB1245 (HJ p. 670) (see Appendix E for Engrossed HB1245 with House Amendments).

The NDLTCA informed their membership that the NDHA, the NDNA and the NDLC all support HB1245 as amended and passed by the House. The NDNA also notified their membership that NDNA supported HB1245 as amended but to watch for

unfriendly amendments by other interest groups (NDNA Policy & Legislative News & Update, 2003, February 7).

Engrossed HB1245 was received by the Senate from the House and referred to the Senate Human Services Committee. A committee hearing before the Senate Human Services Committee was scheduled for March 11, 2003.

Senate Hearing and Amendments

On March 11, 2003, the Senate Human Services Committee heard testimony on the first engrossment of HB1245 (Engrossed HB1245). During the hearing on Engrossed HB1245 before the Senate Human Services Committee, Representative Devlin (R 23) testified before the committee giving an overview of what occurred in the House Human Services Committee stating,

The House Human Services Committee worked diligently to amend the bill to make it more agreeable to the groups involved in the discussion process. This final version has the support of the Health Care Association which is the hospital association, the ND Long Term Care Association and the ND Nurses Association....

What this bill does is say that if you attend a nursing school and graduate from a school that is accredited by either of the two national accreditation organizations in the nation and you pass your national nurses test, which is the same for every graduate in our nation, you will be recognized to practice the profession of nursing in ND just like you are in every other state in our nation.

Section 2 of the bill removes the education component listed in the century code and replaces it with language that allows a nurse degree to be obtained if the student graduates through a fully accredited school with transferable credits.

Section 2&4 put in the language that allows any student that comes from a such [*sic*] a program to practice in our state. It also allows students taking accredited courses to complete their clinical in ND, rather than travel out of state to do that, which is currently taking place.

Section 5 assures that no nurse that who [*sic*] a transitional license will be left behind as we complete the transition.

Section 6 is a continuing education component that would have the Board of Nursing to implement a continuing education process. The language is identical

to the physicians [*sic*] requirements in present law. It will be up to the Board of Nursing to decide how many hours of continuing education should be required. Chairman Lee and members of the committee, the ND Hospitals Association, the Long-Term Care Association and the ND Nurses Association are all in favor of this bill in it's [*sic*] current form. The Human Service Committee and the House of Representatives overwhelmingly supported this bill and hope this committee will occur (Devlin, 2003, no pagination).

The NDNA provided a historical overview of nursing education and regulation in ND for the members of the Senate Human Services Committee. The NDNA reinforced the fact that the impetus behind the introduction of HB1245 was to end the constant debate in the legislative arena regarding entry-into-practice. NDNA felt removing the authority of the NDBON to approve nursing and transferring the power to approve nursing programs to the NDSBHE would end the constant legislative debate over entry-into-practice. NDNA claimed transferring the oversight to the NDSBHE would allow professional educators and national professional accreditation organizations the ability to establish professional education standards. Objection from the NDBON, the CUNEA, nurse educators, and members of the NDNA forced the NDNA to offer an amendment, following the initial hearing in the House, that returned the responsibility for education oversight back to the NDBON (Macdonald, 2003, March 11, no pagination). One informant described the objection from nurse educators as a "hailstorm."

During testimony before the Senate Human Services Committee, the NDNA offered amendments to Engrossed HB1245. Table 3 describes the amendments offered by the NDNA. Column one describes the amendments passed by the House, column two describes the proposed amendments by the NDNA and column three provides the rationale given by the NDNA for the amendments. New language is underlined. Deleted language struck through.

Table 3: NDNA Amendments to Engrossed HB1245

Engrossed House Bill 1245	NDNA Proposed Amendments	Rationale
Section 5. A new subsection to section 43-12.1-10 of the ND Century Code is created and enacted as follows:		
An individual who holds a license as a transitional practical nurse or a transitional registered nurse on August 1, 2003, may renew that license for the 2004 licensure year. Effective with the 2005 licensure year, the board may not renew transitional licenses.	<u>All current transitional licenses as of August 3, 2003 will be reissued as registered nurse or licensed practical nurse licenses.</u>	There is no point in delaying the reissuing of regular licenses and this enables the multistate licensure implementation in a timely fashion.
Section 6. A new section to chapter 43-12.1 of the ND Century Code is created and enacted as follows:		
Continuing education requirements. The board shall adopt rules requiring every nurse licensed in the state to fulfill continuing education requirements prescribed by the rules adopted by the board have been met. The continuing education requirements must be the same for all nurses regardless of the type of nurse or the level of education.	Continuing education requirements. The board shall adopt rules requiring every nurse licensed in the state to fulfill continuing education requirements prescribed by the rules adopted by the board have been met. The continuing education requirements must be the same for all nurses regardless of the type of nurse or the level of education.	While all nurses need continuing education, some (advanced practice) may need different numbers of hours, some may need specific remediation.

(NDNA, 2003, March 11)

Other forthcoming amendments came from Dr. Sharon Hart, President of ND State College of Science. Dr. Hart expressed concern with the current language in Engrossed HB1245. Her concern was that the standards for in-state nursing programs and out-of-state programs were not equal. She pointed out to the committee that in-state nursing programs required higher requirements than out-of-state programs and the unequal standards left in-state schools powerless to respond to state needs. Dr. Hart indicated the current version of the Engrossed HB1245 is an open invitation for out-of-state programs who are accredited by a national accrediting organization to offer a one-year on-line LPN distance education program which would be in direct competition with our in-state programs who are providing two-year associate LPN outreach programs. Dr. Hart testified before the Senate Human Services Committee stating,

The current version of HB1245 removes from statute the existing entry into practice provision requiring an associate degree for a practical nurse and a baccalaureate degree for a registered nurse. The bill continues to leave oversight of nursing education standards with the Board of Nursing. This means that the Board of Nursing will now have sole responsibility for establishing the “entry into practice” educational standards by which new nurses enter the profession in ND...however, that the Board of Nursing may not (underlined for emphasis) restrict the offering in ND of out-of-state nursing education programs as long as they are accredited by the national league of nursing accrediting commission, or the commission on collegiate nursing. Effectively, this means that if an out-of-state-nursing program, regardless of length or educational standards required (underlined for emphasis), carries one of these accreditations, the Board of Nursing must (underlined for emphasis) allow them to function within the state and accept their graduates for licensure (Hart, 2003, no pagination).

Dr. Hart offered two amendments to Engrossed HB1245. The first amendment she offered recommended that all accredited nursing programs to be offered in the state must meet the same or equivalent educational standards as required by the board for ND nursing programs. The second amendment was to delay implementation of HB1245 until July 1, 2004, allowing time for the NDBON to change the entry-into- practice requirement for ND in-state nursing programs to be more consistent with those states where out-of-state nursing programs may come from (Hart, 2003). Dr. Hart gave the following rationale for the amendments, “The results of these amendments would be to require out-of-state providers to adhere to the same educational standards as ND providers. However, whenever the entry-into-practice standards change, they would change for all providers alike” (Hart, 2003).

The NDBON testified in opposition to Engrossed HB1245. The NDBON identified interpretation conflicts with Engrossed HB1245. Table 4 describes the conflict the NDBON had with several amendments approved by the House. Column one includes the current language in Engrossed HB1245. Column two describes the conflict the

NDBON had with the amendment and column three describes proposed amendments offered by the NDBON. New language is underlined.

The NDBON concurred with the amendments offered by the NDNA regarding transitional licenses and supported as of August 2, 2003, all current nurses with a transitional license will be reissued permanent registered nurse or licensed practical nurse license. The NDBON did not oppose the amendment for mandatory continuing education for re-licensure but did testify no current research existed to support continuing education as an effective means for ensuring continuing competency (Kalanek, 2003, March 7). However, the NDBON went on record opposing Engrossed HB1245 and urged a do not pass.

The CUNEA testified in opposition to Engrossed HB1245. They expressed a concern that Engrossed HB1245 could jeopardize graduates taking the licensure examination and becoming licensed as a nurse in other states because Engrossed HB1245 did not allow the NDBON to approve nursing programs, a requirement of other states for graduates to take the licensing exam. Another concern was competition from out-of-state nursing students for clinical learning sites in ND, which are limited and are already at a premium in many areas of the state. In addition, existing nursing programs would be forced to compete for students and revenue with out-of-state programs rather than support for our in-state colleges and universities (Marsh, 2003, March 11).

The NDNA and NDBON did not concur on the phrase “board-approved” in Section 3 of HB1245 (43-12.1-04. Exemptions). The NDNA did not want to retain the words “board approved” as proposed by the NDBON because it would not allow out-of-state, innovative, or on-line programs targeting rural areas, specifically, the USD “Grow

Our Own” on-line associate degree registered nurse program. The NDLTC did not address this section.

The NDLTCA and the NDHA testified in support of Engrossed HB1245 indicating Engrossed HB1245 provided state institutions flexibility to offer one year LPN and two-year RN programs in addition to or instead of their current offerings (Peterson, 2003; Thomas, 2003, March 7). Neither of the organizations offered amendments to Engrossed HB1245 during the hearing before the Senate Human Services Committee. On March 19, 2003, the Senate Human Services Committee met to discuss Engrossed HB1245. Senator Lee (R 13), Chair of the Senate Human Services Committee, expressed concern about two-year LPN programs compared to the two-year associate RN programs and the effect on the current LPN programs in ND. Karen Macdonald, NDNA Board member, responded to Senator Lee’s concern by clarifying, “nothing will happen until the Board of Nursing would look at any new rules. This bill still allows the NDBON to set the standards for nursing education. This bill [Engrossed HB1245] as it stands now does not diminish the current education standards for nursing education programs that are in place” (HB1245, 2003, March 19, Senate Human Services Committee minutes). Dr. Connie Kalanek , Executive Director of the NDBON concurred with Karen Macdonald, that Engrossed HB1245 would not change the educational standards. However, Kalanek expressed, “It feels the intent of the legislature is that there is the potential for the rules to be compromised, and that would lower the standards.”

Table 4. NDBON Conflict with Engrossed HB1245 and Proposed Amendments.

Engrossed HB1245	Conflict	NDBON Proposed Amendments
Section 2. Subsection 2 of section 43-12.1-04 of the ND Century Code is amended and reenacted as follows.		
<p>A student practicing nursing as a part of a nursing education program preparing for initial or advanced licensure as a registered nurse or licensed practical nurse which is located in an institution of higher education that offers transferable credit.</p>	<p>This amendment exempts any and all nursing students to practice in ND. This allows students from any program whether approved or accredited to have clinical practice in ND. How would the organizations that provide clinical experience for students have assurance that the safety of the patient will be foremost? This amendments eliminates any safety standards for faculty supervision of students, since the NDBON is prohibited from restricting the offering of accredited programs.</p>	<p><u>Students</u> practicing nursing as part of a nursing education program preparing for initial or advanced licensure as a registered nurse or licensed practical nurse which is located in an institution of higher education that offers transferable credit <u>upon notification to the board.</u></p>
Section 3. Amendment. Section 43-12.1-08 of the ND Century Code is amended and reenacted as follows:		
<p>Subsection 7 Establish standards for nursing education programs leading to licensure and collaborate with nursing education program approval organizations and accreditation organizations. The board may not restrict the offering in this state of nursing programs accredited by the national league for nursing accrediting commission, or the commission on collegiate nursing education</p>	<p>This amendment removes the NDBON approval for nursing education programs. It seems contradictory when a board may establish standards but not be able to enforce through a verification process of having met the standard. How would ND programs educate students without consistent standards for program approval? As it is written in the current bill, the NDBON will not have the authority to regulate its own</p>	<p>Subsection 7. <u>Periodically review and approve</u> nursing education programs leading to <u>intial or advanced licensure.</u> The board may not restrict the offering in this state of nursing programs accredited by the national league for nursing accrediting commission, incorporated, or the commission on collegiate nursing education.</p>
<p>Subsection 9. Approve for licensure graduates of nursing education programs that are recognized by the board or that are accredited by national nursing program accreditation organizations that are recognized by the board. However, a graduate of a nursing education program that is not located in the United States, Canada, or the United States' possessions or territories must have a baccalaureate degree in order to be licensed as a registered nurse. The board may not restrict the offering in this state of nursing programs accredited by the national league for nursing accrediting commission, incorporated, or the commission on collegiate nursing education.</p>	<p>standards for nursing education if a program has national accreditation. It will prohibit any of the ND programs from starting any new programs and getting them accredited. Programs must have on-going approval from the board to continue with accreditation of the programs. If the ability by the NDBON to approve nursing education programs was eliminated, all programs currently educating students would lose program approval and accreditation. The foreign nurse statement is discriminatory and serves no purpose. If immigrant nurses were able to obtain H1B Visa status under this provision, 49 other states would have already places this statement in law. The last sentence is a repeat of subsection 7. Having this provision written twice "to make sure they get the message" is derogatory and demeaning.</p>	<p>Subsection 9. <u>Establish standards for assessing the competence of licensees and registrants continuing in or returning to practice.</u> The board may not restrict the offering in this state of nursing programs accredited by the national league for nursing accrediting commission, incorporated, or the commission on collegiate nursing education.</p>

(NDBON, 2003)

Legislative intent was evident as noted in an e-mail sent to NDNA by Representative Devlin (R 23) regard intent language stating,

Would you [Sharon Moos, NDNA Executive Director] or Karen [Karen Macdonald, NDNA lobbyist] have any thoughts about some legislative intent language that we [Legislators] expect the BON to work closely with the education groups so there are no unnecessary delay in the process [approval of new nursing programs by the NDBON]. We could make that a permanent part of the record of the bill, which would help us later. Please share any thoughts you have on this issue. Thanks! Bill. (B. Devlin, personal communication, April 3, 2003).

Senator Lee (R 13) stated,

The biggest challenge to the two-year LPN program is the two-year associate RN degree program. Why would you choose two-year LPN program when they can go to a two-year associate RN program? I really am struggling with the one-year LPN program. When you need to work longer to be a plumber than to be an LPN (HB1245 , 2003, March 19, Senate Human Services Committee minutes).

The committee took no action and the Senate Human Services Committee reconvened on March 24, 2003, to discuss the proposed amendments prepared by Legislative Council for Senator Lee (R 13) to Engrossed HB1245 with consultation from Connie Kalanek, NDBON Executive Director and Karen Macdonald, NDNA Board member. Senator Judy Lee (R 13), Chair of the Senate Human Services Committee, explained the amendments to the committee members stating, “What it [the amendments] really do is eliminate the requirements for a baccalaureate degree for nurses and an associate degree for licensed nurses” (HB1245 Senate Human Services Committee minutes, 2003, March 24).

Karen Macdonald, NDNA Board member, corrected Senator Lee and explained to the committee that the amendments do not eliminate the requirements for the baccalaureate degree for RNs or the associate degree for LPNs. It eliminates the uneven treatment of people who come in from out-of state nursing programs. Macdonald

described the bill to do the following three things: (a) It eliminates the transitional license for nurses coming into the state without the required academic degree; (b) it allows out-of-state nursing programs that are not baccalaureate RN programs or associate degree LPN programs to come into the state and obtain clinical experiences within the state; and (c) it eliminates the word “oversight” for programs that do not lead to licensure such as Masters degree programs by the NDBON. During the discussion of the bill, Senator Lee continued to express concern about a one year LPN stating, “I just cannot believe that you can really get a good LPN in a one-year program” (HB1245, 2003, March 24, Senate Human Services Committee minutes).

After much discussion over transferable credit hours between nursing programs, transitional licensure, and mandatory continuing education, the Senate Human Services Committee accepted the amendments offered by the NDBON, to allow the NDBON to periodically review and approve nursing education programs leading to initial or advanced licensure and the removal of language from the Engrossed HB1245 referring to foreign nurses. They also accepted the amendment offered by Dr. Sharon Hart that would require accredited out-of-state nursing programs offering a nursing program in the state meet the same or equivalent education standards required by the board for ND programs. The Senate Human Services Committee accepted the amendment offered by the NDNA to clarify mandatory continuing requirements.

On March 24, 2003, the Senate Human Services Committee voted 4-2 do pass on the amendments. On March 28, 2003, the Senate passed Engrossed HB1245 as amended by the Senate Human Services Committee by a vote of 32 yeas, 12 nays, 3 absent and not voting. Senators Lyson (R 1), Nething (R 12), and Robinson (D 24) were absent and not

voting (SJ p.978). HB1245 as amended by the Senate was returned to the House for concurrence.

Conference Session

On April 2, 2003, the House did not concur with the Senate amendments to Engrossed HB1245 (HJ p 1181). Because the House and Senate were at odds over the amendments, a conference committee was appointed. Representative Devlin (R 23) co-sponsor of HB1245, Representative Weisz (R 14), and Representative Sandvig (D 21) were appointed from the House to the conference committee. Senator Judy Lee (R 13), Chair of the Senate Human Services Committee, Senator Erbele (R 28), and Senator Fairfield (D 29) were appointed from the Senate to the Conference committee (HJ p.1181; SJ p.1062). The conferees were charged with finding a compromise acceptable to the majority of the Legislative Assembly.

The policy stream was in disarray. There remained sharp, fundamental differences about which approach to take. Members of the conference committee discussed the concern about accredited out-of-state programs coming into the state that did not meet the same standards as in-state nursing programs. Senator Lee (R 13) posed the following question to interest groups present during the conference committee,

Could you tell [the committee] if those 2 accreditation boards [the National League for Nursing Accrediting Commission, incorporated, or the Commission on Collegiate Nursing Education] have such standards that we would have out-of-state 6 month LPN program be accredited by those boards and we would be stuck with them, we want to be sure that they would be comparable to ND programs but without Dr. Hart's language in there. [out-of state nursing programs meet the same or equivalent education standards required by the board for ND program] (HB1245 Conference Committee minutes, 2003, April 9).

Dr. Connie Kalanek, NDBON Executive Director, responded to Senator Lee's question by informing the committee that if a state board of nursing approved the 6-month program the accrediting organization could accredit the program. Thus, if the program were accredited, then according to the language in the bill, the nursing program would not be restricted from coming into the state.

The conference committee members discussed an amendment offered earlier by Dr. Sharon Hart, President of Wahpeton State School of Science, during the Senate Human Services hearing on HB1245 calling to delay implementation of HB1245 until July 1, 2004, to level the playing ground between out-of state and in-state nursing education programs. Delaying the implementation of HB1245 would give the NDBON time to change the rules for entry-into-nursing-practice requirements for ND nursing programs to be consistent with the educational levels of out-of-state accredited nursing programs that may come into the state to provide a nursing education program. In essence, the delay would reduce the academic educational requirements for RNs and LPNs in ND. This created discussion by the committee about one-year LPN nursing programs coming into ND and the need to give ND nursing programs time to change their curriculum. Senator Judy Lee (R 13) expressed she was comfortable with the ND nursing programs working with the NDBON to develop a one-year LPN program. However, she was not comfortable letting LPN programs with a course of study that was less than one year coming into the state. She expressed the need to protect the health of the citizens of ND (HB1245, 2003, April 9, Health Human Services Conference Committee minutes).

The conference committee was experiencing difficulty in writing language that would do what they wanted. The committee wanted the NDBON to accept out-of-state accredited nursing programs; however, they did not want LPN nursing programs to be less than one year. Senator Judy Lee (R 13), stated,

I have concerns, we know what we want to do, but not sure, the bill does it. The accreditation entities [National League for Nursing Accrediting Commission, incorporated, or the Commission on Collegiate Nursing Education] accredit programs based on the accreditation criteria for the state in which the program is offered. So every state may be different, this is not necessarily the way we want it to be, but the way it (the bill) is worded it says that (HB1245, 2003, April 9, Human Services Conference Committee minutes).

Representative Devlin (R 23) thought the legislature should give the NDBON the authority to not [*sic*] let any nursing program into the state that is under whatever the national average is for clinical time. Senator Lee (R 13) was reluctant to specify in law the requirements needed for a nursing program, and felt the requirements belonged in the rules rather than in statute and the board should have the authority to determine whether these programs are going to be adequate. She hoped that someone in this group could figure out how to allow the NDBON to have some minimum criteria and to get graduates licensed by ND standards (HB1245, 2003, April 9, Human Services Conference committee minutes).

Senator Lee (R 13) also felt it was unfair to ask any board to have the responsibility for a particular action, in this case the health and well-being of people cared for by these nurses, to have the responsibility and not the authority. She expressed,

I would prefer to allow the people [NDBON] that have the responsibility of doing this, to do it as well as they possibly can and if it doesn't seem to be happening the way we [Legislature] foresaw it happening we will have a very different view of this two years from now. However, I know the House has a whole lot more heartburn about these issues than the Senate has, but we do better than that for

teachers. I would like the board to have the power and the authority whether or not the programs coming in are going to be providing an adequate program. The students are going to go wherever there is a program, I would like the board to have the responsibility (HB1234 Human Services Conference Committee minutes 2003, April 9).

Representative Devlin (R 23) indicated he was not as comfortable with Senator Lee's recommendation to give the NDBON power and authority to develop standards. Stating, "I am not as comfortable Senator Lee, as you are with this, but enough members of the committee are in agreement with giving the NDBON power and authority to develop standards for programs coming into the state" (HB1245 Human Services Conference Committee minutes, 2003, April 9).

Shelly Peterson, NDLTTC President, indicated there was no benefit in delaying implementation of HB1245. She expressed she could support intent language in the bill that would develop one or two year standards. Placing intent language suggested by the conference committee in the bill would spell out exactly the length of programs requiring approval by the NDBON. Senator Lee stated,

I think what the unintended consequence of this whole thing is that we have come to anticipate and take for granted certain levels of competency on the part of LPN's and RN's in ND and that is going to drop, and the people that are hiring these folks are going to find that they aren't getting the kind of nurses that they had before....we are looking at the watering down of the capability of nurses....somebody who graduates from a 1 year medical program is not the same, it will be a long cold day when I'm convinced that the 2 year program will ever be as good as a 4 year nurse. (HB1245 Human Services Conference Committee minutes, 2003, April 9).

Unlike previous sessions of controversy over entry-into-nursing-practice, the furor did not die down but rather the scope of controversy widened. Consensus building among interest groups was becoming more difficult. Members of the conference committee were becoming frustrated in trying to work out language that would appease

the interest groups involved and would still allow students from the USD and the Good Samaritan “Grow our Own” program obtain clinical experience, yet not let just any out-of-state nursing programs come into ND. As the frustration grew, one informant stated, “Senator Judy Lee (R 13) and Representative Devlin (R 23) got up and said ‘we don’t care what you want to do any more, we don’t care what you think, we’ll write it [the bill] and we’ll tell you how it’s going to be’. And that’s what came back.”

During the final days of the conference committee, Representative Devlin (R 23) had HB1245 completely rewritten by Legislative Council. Within the legislative arena, the slang for the rewriting of an entire bill is known as being “hog housed”. The hog housed final revisions to HB1245 by Representative Devlin (R 23) defined multiple levels of nursing education leading to licensure of an LPN and RN in the NPA.

It also allowed students attending an out-of-state nursing program to obtain clinical nursing practice if the nursing program is approved by a board of nursing and is located in an institution of higher education that offers transferable credit. The bill included continuing education for all nurses in order to be re-licensed. It also placed restrictions on who could be appointed to the NDBON, by requiring the majority of the board members be actively engaged in practice in a nurse-patient setting. The following is the language that emerged from Representative Devlin’s hog housed amendment to HB1245 that changed the educational requirements for licensure as an RN and LPN in ND:

- (1) the board of nursing shall adopt rules establishing standards for in-state nursing education programs leading to licensure as a LPN and RN.
- (2) the standards for a LPN program must:

- (a) allow for a program that offers two or more academic years of course study or the equivalent;
 - (b) allow for a program that offers less than two academic years of course study or the equivalent and;
 - (c) may not allow for a program that offers less than one academic year of course study or the equivalent and
- (3) the standards for an RN program must:
- (a) allow for a program that offers four or more academic years of course study or the equivalent;
 - (b) allow for a program that offers less than four academic years of course study or the equivalent and;
 - (c) may not allow for a program that offers less than two academic years of course study or the equivalent (HB1245 Human Services Conference Committee minutes, 2003, April 14).

The revision also included that the NDBON adopt rules establishing standards for the approval of out-of-state nursing education programs, which need to include consideration of whether the program is accredited by the National League for Nursing Accrediting Commission (NLNAC), incorporated, or the Commission on Collegiate Nursing Education (CCNE) and whether the program meets the requirement of the state in which the program is provided.

The NDNA expressed concern about the revisions that occurred to HB1245 indicating the “hog housed” amendments had never been discussed in the committee.

After seeing the amendments offered by Representative Devlin (R 23), the NDNA felt they could no longer support HB1245 and withdrew their support. One informant stated,

It was a brand new bill. There was stuff in there that had never been talked about. Continuing ed, that was never on the board. The board members qualifications, that was never discussed by anybody. There was stuff that was never brought up that all of a sudden came back in there. It didn't come back, it just appeared in there. And then we said we can't support the bill any more.

On April 14, 2003, Senator Judy Lee (R 13) moved HB1245, as amended by the Conference committee and the Senate, recede from the senate amendments. Representative Weisz (R 14) seconded the motion. The Conference committee voted 4-2 to support HB1245 as amended. Senator Fairfield (D 29) and Representative Sandvig (D-21) voting against amended HB1245 (HB1245, 2003, April 14, Human Services Conference committee minutes)(see Appendix F for Conference Committee amendments to HB1245). On April 15, 2003, the House voted 60-32 in support of HB1245 as amended by the conference committee (HJ p.1543). On April 16, 2003, the Senate voted 26-21 in support of HB1245 as amended by the conference committee (SJ p.1425). Governor John Hoeven (R) signed HB1245 into law on April 17, 2003 (HJ p.1561)(see Appendix G for Enrolled HB1245).

Thematic Findings

This section presents the three major themes that emerged from the study of this single case; the analysis of HB1245 introduced in the 2003 58th Legislative Assembly of ND. The supporting data is presented in the informants' own words to convey their story about the issues and debates that evolved around HB1245. Other supporting evidence comes from testimony and documents.

NDNA Member Reactions to HB1245

Theme 1: NDNA members experienced many feelings about HB1245.

A number of nurse informants expressed feelings of anger and animosity when asked about how they learned about legislation being introduced by the NDNA. Many expressed not being informed and not knowing what was happening. One informant stated, "Members had no idea what was out there and what the board had just voted on... They were completely disenfranchised, completely." One informant stated,

there was some anger on some of our part that they [NDNA] would dare put that [moving control of nursing programs to the board of higher education] out without going to the organization (pauses) to the members (pauses), how could a few of them come up with something like that without thinking it through and without going to the members and asking the members opinion about it."

Another feeling was of hopelessness and not having a voice. One informant described it as:

Pain and agony. Just kind of a feeling of hopelessness, like nursing just doesn't have a voice at all. Kind of a fear (pauses) my feelings of fear for the future... A lot of lack of respect for people that I thought had a lot more on the ball than they do (pauses) people in long-term care, people at the Nurses Association. I had a lot of personal disappointment.

Analysis of the interview and document data indicated members of NDNA felt a lack of trust and had a feeling of helplessness.

At the beginning I guess I just felt that it was (pauses) I wasn't sure who was totally behind it and who wasn't and that's when we started getting really nervous about the Nurses Association. (pauses) What were they really doing and what were they supporting and what weren't they supporting? And yet, if it was going to be inevitable and I think everyone just got a feeling it's inevitable (pauses) there isn't anything we can do about it.

Growing Tension

Theme 2: Tension increased between the NDNA and NDBON.

When informants were asked what prompted the introduction of HB1245, many identified tension between the NDNA and NDBON. One informant stated, “It started because, and this is my opinion, it started because there is some sort of problem (pauses) ongoing which I think is a personal thing (pauses) between some members of the NDNA and the NDBON. And that’s when it started.”

Tension between the NDNA and NDBON started to occur during the 2001 legislative session. The NDNA believed a deal was struck between the NDBON and the NDLTCA to eliminate the academic degree requirement for nurses who were required to obtain a degree to be re-licensed in ND. The NDBON requested a change to the NPA during the 2001 legislative session to support continuing education for re-licensure rather than requiring the appropriate academic degree for nurses issued a transitional license. The NDNA felt the educational standards were jeopardized when the NDBON requested this change to the NPA. One informant summarized this by stating,

The Board of Nursing had worked with long term care....they met in December before the last session with Senator Judy Lee, and Shelly Peterson [NDLTCA President] to talk about a legislative proposal that would come from the Board to allow those students from out of state that didn’t meet the requirements, the current requirements, to be licensed in ND. So, as that came forward,there is no doubt that some of those parties, particularly long term care, I think, believed that that was the first step in toppling the whole entry issue. And if they got the support of that and it was viewed as it was supported by nursing because members of nursing met with them before the session started and agreed to introduce the legislation, then that momentum would manage to take the rest of us out. The ND Nurses Association was not apprised that that was the move the Board was taking. They (ND Nurses Association) had no idea that was happening. And actually, I got caught by surprise at the Capitol because Shelly Peterson (Executive Director of NDLTCA) handed me the draft of the proposed rules for the implementation of allowing out of state gradates to come in. She said “does this look OK to you?” I

said, I've never seen it, where did you get it?" She said, the Board of Nursing faxed it to me." And I said, "I just can't believe that they would support this because this basically gets rid of part of entry and I can't believe they support that."

During the 2003 legislative session, tension continued to grow between the NDNA and the NDBON. One informant stated, "Some members of the NDNA had a complete dislike and distrust of the NDBON. I thought the comments made about the Board of Nursing, regardless if they were true or not, there was just a lot of bashing of the Board of Nursing."

The NDNA and the NDBON expressed their dislike for each other in correspondence with legislators. In an e-mail sent on April 2, 2003 to Representative Devlin (R 23) from Sharon Moos, NDNA Executive Administrator stating,

The Board of Nursing does have a history these past few years of being very difficult to work with, however HB1245 allows out-of-state, on-line nursing education programs to be offered in the state without the approval of the Board of Nursing and does not allow the board to restrict any in-state nursing education programs accredited by NLN or CCNE. Given these two changes, I believe higher education (Donna Thigpen, in particular) will immediately (and successfully) challenge the Board of Nursing if they attempt to "play power games" in the approval of any new in-state nursing education programs. Again, our goal is getting and keeping this issue out of the legislature. Thanks for all of your help.

A letter sent on February 11, 2003, to Representative Clara Sue Price (R 40), Chair of the House Human Service Committee, from Constance Kalanek Ph.D., RN, Executive Director of NDBON stated,

HB1245 is not supported by data and appears to be a personal mission by a select few from the NDNA...This bill is not a collective effort of the nursing profession. The right people were not at the table. The chairs and representatives of the nursing programs were excluded from this discussion along with staff from the NDBON....NDNA membership had become very divided on this issue.... The NDNA Districts in Fargo, Grand Forks, Dickinson, and Beulah oppose this bill. The profession must come together on the issue of program approval and

education requirements.... The vast majority of ND nurses want to be professional not degraded to a trade occupation, which is what is happening with this legislation.

During the hearing on HB1245 Representative Porter (R 34) asked Mary Smith, NDNA President, "How do we proceed if this issue is nurse versus nurse?" Smith responded by stating, "Nurses do not always agree, It's not a turf battle. This is a battle of how best to lead nursing into the 21st Century." (HB1245 House Human Services Committee minutes, 2003, January 22, p. 2).

Tension between NDNA and the NDBON continued to mount with a letter sent to the NDBON President from the NDBON Secretary/Treasurer. The letter started with a quote from Mark Twain stating,

"there are lies, damn lies, and statistics." The written testimony of Dr. Kalanek certainly bears that out.

I also want to remind you that the impetus for this bill was the deal cut by the Board of Nursing staff with the Long-term Care Association regarding the requirements for transitional license during the 2001 Legislative Session. There was no collaboration with the NDNA by the NDBON at that time (ND Nurses Association [Memo], 2003, March 12).

The NDNA blamed the NDBON for the final version of HB1245. The NDNA clearly expressed their anger with the NDBON in an e-mail sent to the NDNA leadership.

The BON is clearly responsible for requesting the Conference Committee to put this language into HB1245. Throughout the Conference Committee meeting (all 6 of them), BON representatives did not offer a single alternative to hog-house language that could have prevented this drastic step (e-mail from NDNA office to NDNA leadership, April 16, 2003).

One nurse informant summed up the tension between the NDNA and NDBON.

I think the relationship was so fractured that that was the issue, there wasn't any communication that was occurring amongst organizations and between the NDBON and NDBON particularly. There was communication that was occurring with NDNA members and the NDBON, CUNEA and the NDBON, those, but

there certainly was not a time when we all sat down together to work something out.

Confusion and Complexity

Theme 3: HB1245 was unclear, confusing and difficult to follow.

A number of informants expressed that the bill drafted by NDNA was vague and difficult to understand. “most people didn’t understand it [the bill draft].” “It was very confusing to me.” It wasn’t well thought out....” Another nurse informant said,

On December 11, 2002, we [NDNA Board of Directors] had a telephone call meeting of the board and there was a motion brought forward to try to make legislation of taking the oversight of nursing regulations away from the Board of Nursing. And that was the motion. I think there were people who voted for it who had no idea what they were voting for.

One legislator informant said,

I looked it over [Bill draft] and it was, to say the least, a very complex piece of legislation the way it was originally written...and it was tough to follow exactly what they were, what their goal was from the Nurses Association.

After the January 22, 2003, hearing on HB1245 before the House Human Services committee nurses expressed difficulty in understanding HB1245. There was a lot of misunderstanding and misinterpretation of the language in HB1245. To assist with clarification of the bill Sharon Moos, NDNA Executive Administrator, sent an e-mail on January 24, 2003, to the NDNA Board of Directors, NDNA region leaders, NDNA district presidents, and NDNA council chairs to help members understand the language in HB1245. The e-mail stated,

HB1245 was heard in House Human Services Committee earlier this week (January 22, 2003). Unfortunately, confusion over the bill seems to be increasing among NDNA members. I believe one of the points of confusion is the language in the bill and would ask that board members help clarify this issue with the membership.

The language in HB1245 that removes the educational requirements in the definitions of licensed practical nurse and registered nurse are definitions. They were not added to the practices act until 1995 (entry has been around since 1985). These definitions are being changed in order to remove oversight of nursing education from the responsibilities of a licensing board (Board of Nursing).

NDNA's political credibility is damaged when members who oppose the association's position do not understand the intent of the bill. We have worked hard with the bill sponsors to help them understand we are seeking to move the argument and decision about nursing education requirements out of the legislature and into higher education...IF the membership opposes the bill because it moves oversight out of the Board of Nursing, that is a difference of opinion. If they oppose the bill because they believe it is lowering the educational requirements, they are helping "back legislators into a corner" that will lend support to actually reducing the educational requirements they believe they are trying to protect.

After the initial hearing on HB1245 CUNEA met via teleconference to discuss amendments and opposition to HB1245. The members of CUNEA had many questions about HB1245. One question was how removing the power of the NDBON to approve nursing programs was going to affect the ability of their students to write the national licensing exam. There was confusion among members of CUNEA about what the bill said. "We fully agreed that the current working of the bill is confusing and open to a variety of interpretations" (Memo from CUNEA to NDNA, February 2003).

As HB1245 moved through the legislative process it unfolded and became more confusing. It became difficult to follow and to understand what was occurring. One legislator stated, "It took on a life of its own." During the final conference committee meetings HB1245 was becoming more difficult to follow. One informant stated,

After the conference committee amendments were offered. The Board of Nursing presented their information and then they (conference committee members) went ahead and did what they wanted to do. 'Well, nobody knew what was going on. It was the biggest mess ever'. 'It was so convoluted and confusing that no one really understood what it (HB1245) said anymore and could even try to take it apart with all the nuances that the legislation (pauses) there was no agreement on what it said'.

One informant summed up the confusion of HB1245.

I think a big part of it is not everybody was on board with it (HB1245). Because I think, the biggest thing was most people did not understand it (HB1245). It did take on a life of its own. It began to take on all sorts of different shapes and forms and then it began to take on the form of reducing educational standards.

CHAPTER VI

SUMMARY AND IMPLICATIONS

When you lobby for something, what you have to do is put together your coalition, you have to gear up, you have to get your political forces in line, and then you sit there and wait for the fortuitous event...As I see it, people who are trying to advocate change are like surfers waiting for the big wave. You get out there, you have to be ready to go, you have to be ready to paddle. If you're not ready to paddle when the big wave comes along, you're not going to ride it in. (Kingdon, 1995, p 165).

This chapter provides a summary of findings, implications for nursing, recommendations for future research, and conclusions. The purpose of this study was to trace the events and debates during the 2003 58th ND Legislative Assembly that resulted in the reduction of the nursing education requirement that existed in ND for over 17 years. What happened in ND makes it a revelatory case as described by Yin (2003). A single case study approach using John Kingdon's multiple streams model was utilized to examine HB1245 introduced by the NDNA during the 2003, 58th ND Legislative Assembly.

Kingdon's model contains three independent streams flowing through the political system: (a) problem, (b) policy, and (c) politics. Each stream is independent from the other, and at a critical point in time, policy entrepreneurs couple or join the streams creating a window of opportunity for a new direction for policy change.

The data for this study were collected from multiple sources. Sources included archival documents from the NDNA, the NDBON, and archival documents from the

ND Legislative Council Library. All of the sources were categorized into the three streams described in Kingdon's multiple streams model, using a constant comparative method. Thirteen individuals were interviewed who had a role during the 2003 legislative session. Each interview was audio-taped and transcribed verbatim. The interviews transcriptions were coded and three major themes emerged.

Summary

According to the extant records of the NDNA, the reform of education requirements for entry-into-practice in ND was never meant to be a legislative issue. However, since the implementation of entry-into-practice in 1987, multiple legislative challenges have occurred. One of the legislative challenges occurred during the 1985 legislative session, prior to the implementation of entry-into-practice. In seven of the ten ND legislative sessions between 1985 and 2003 there were numerous legislative attempts made to rescind the action taken by the NDBON in 1987 to require its educational programs for an RN to be at a baccalaureate degree and for an LPN to be at an associate degree. These attempts took several different directions. One direction was to redefine the composition of the board of nursing by decreasing the number of nurses on the board, making nurses a minority.

Another direction was legislation that defined a nurse as one who graduated from a certain type of educational program. The legislation in this category mandated multiple levels of nursing, including diploma or associate degree programs for the registered nurse. Had these bills passed, the type of nursing educational programs offered in ND would have been written into state law. This meant legislators defined what was appropriate for nursing education rather than the profession of nursing. Records indicate

the NDLTCA and the NDHA testified in support of these bills. All of these bills were unsuccessful.

Yet, another legislative attempt by groups outside of nursing was to remove the transitional license requirement for non-baccalaureate degree RNs and non-associate degree LPNs licensed in another state after 1987 practicing in ND. Nurses without the required academic degree needed to demonstrate a plan of study with a nursing program demonstrating work toward the required degree to be re-licensed to continue practicing in ND. Health care administrators and some nurses considered the transitional license a barrier to the recruitment and retention of nurses.

This ruling impacts the border cities strongly because of the ability for nurses to find jobs in adjoining states with less stringent educational requirements. Our facility has gone through two and three year search for qualified nurses to fill our LPN and RN positions. We have had numerous inquires from out of state nurses, but when they find they have to go back to school, they are no longer interested. (Hoeft, 1997, no pagination)

During the 2001 ND Legislative Assembly, SB2114, introduced by the NDBON and amended at the request of the NDLTCA, successfully removed the required academic degree for nurses issued a transitional license and replaced it with 30 continuing education hours for re-licensure. The change in the transitional license requirement mounted tension between the NDBON and the NDNA. The NDNA asserted the change allowed non-baccalaureate degree RNs and non-associate degree LPNs to practice in ND without ever obtaining the required academic degree was the “loss of entry-into-practice” in ND. The NDNA claimed the NDBON did not consult with them prior to recommending a change that replaced the academic requirement with 30 continuing education hours.

The change in the transitional license appeased the NDLTCA until the approach of the 2003 legislative session. In the summer of 2003, the NDLTCA surveyed their membership asking if they should take a position for or against entry-into-practice during the 2003 legislative session. The ultimate goal of the NDLTCA was to eliminate the required nursing educational requirement.

This is not an issue of professional standards, or of turning back the clock of time in the nursing profession. This is an issue of removing one (underlined for emphasis) barrier, that currently exists when a nurse moves to ND and is barred from work unless they have a bachelor's degree/associate degree or is willing to return to school. For most individuals mid-career schooling is simply not an option. ...some (nurses) with extensive years of experience and distinguished work records, find themselves arbitrarily barred from work in ND only because of the stringent education requirements specific only to our state. Nevertheless, facilities are frustrated because ND is the only state with the bachelor and associate degree requirements. Not because this is an ideal standard, but because the standard is impossible for some to meet. We believe we need to create an environment that invites nursing professionals into ND rather than setting up disincentive, that for some is a complete road block. (Warner, 1997, no pagination)

As the national nursing shortage spread into ND, the NDLTCA and NDHA made it clear to policymakers that ND was the only state requiring a baccalaureate and associate degree for entry-into-practice. They also claimed entry-into-practice was a factor in creating the nursing shortage in ND.

The associate degree RN (two year) functions primarily at the bedside in a nursing facility setting (or other institutional setting) in less complex patient care situations. This nurse assesses patient needs, provides comfort and treatment....This nurse delegates tasks to the CNAs and medication aides, who ultimately provide 80% of the hands on care. This is the type of nurse we are missing in long-term care and with our baby boomers retiring in the next 5-15 years, how will we replace these nurses? Our four year universities have done a fantastic job of producing baccalaureate prepared RNs. The BSN competencies not only include the two-year prepared RN competencies, but also build upon them. Their level of responsibility tends to be more complex, requiring more independent nursing decisions. In the nursing facility setting, this would most likely be the Director of Nursing. We have a need for both types of prepared

nurses. In ND, our greatest need is for the bedside nurse. It is our bedside nurse that is becoming extinct. (Peterson, 2003, March 11, no pagination)

The national shortage of nurses and being the only state requiring a baccalaureate degree for RNs and an associate degree for LPNs became focusing events that strengthened the case for the NDLTCA and the NDHA to lobby to change the nursing educational requirements in ND. Kingdon (1995) concluded conditions precede problems and problems are central to agenda setting.

Rather than responding to the nursing shortage and being the only state to require a baccalaureate degree for RNs and an associate degree for LPNs the NDNA leadership's solution to the issue was to develop legislative language that they believed would remove the debate about nursing education requirements from the legislative arena. This resulted in the introduction of HB1245 that amended the NPA by removing the power of the NDBON to approve nursing programs and to transfer the power to approve nursing programs to the NDSBHE.

What became evident through the discussion of John Kingdon's multiple policy streams as applied to the case of HB1245, was a policy window forced opened when the NDNA Board of Directors introduced HB1245. From the interviews and archival documents, the NDNA membership did not understand the policy alternative to move the control of nursing programs to the NDSBHE. The rationale given by the NDNA Board of Directors for introducing HB1245 was unclear to the nursing community. The NDNA Board of Directors asserted the reason for moving the authority to approve nursing programs to the NDSBHE was to remove the ongoing debate of nursing education from the legislative arena because ND regulatory agencies, such as the NDBON, are subject to

regular and routine legislative oversight. This rationale was puzzling to many nurses, because the NDSBHE is also a state board that comes under the scrutiny of the legislature.

This lack of understanding by nurses created confusion and fragmentation among the NDNA membership and the nursing community. Kingdon (1995) concluded the fragmentation of a policy system affects the stability of the agenda within that system. Fragmentation within the nursing community carried with it several consequences that influenced the outcome of the bill introduced by NDNA.

Not all of the players in the nursing community knew what each other was doing. As Kingdon (1995) cited, “The left hand knows not what the right hand is doing, with the result that the left hand sometimes does something that profoundly affects the right hand, without anyone ever seeing the implications” (p. 119). Moving the approval of nursing programs to the NDSBHE was a new concept for most of the nursing community and the NDNA Board of Directors did not articulate the concept to the NDNA membership and the nursing education community. The NDNA leadership was not prepared for the opposition from the NDNA membership and the nursing education community. According to Kingdon (1995) the “softening up” of the policy community and the larger public is important for them to get used to new ideas and to build acceptance for the proposal. “Without this preliminary work, a proposal sprung even at a propitious time is likely to fall on deaf ears. Softening up seems to be necessary before a proposal is taken seriously” (p. 130).

Technical details and compatibility with the values of the community members need to be present before a policy can survive and be taken seriously. Kingdon (1995)

stated before introducing a proposal the “obvious bugs [need to be] ironed out” (p.132). The analysis of HB1245 indicated it lacked technical feasibility and it was not compatible with the values of the nursing community. The NDNA Board of Directors could not clearly explain how a new nursing program would be approved by the NDSBHE. Nor could they explain how moving the authority to approve nursing programs to the NDSBHE would affect nursing graduates’ ability to take the national licensing exam. A requirement for nursing students to be eligible to take the national licensing exam is to graduate from a nursing program approved by the state board of nursing.

In spite of the fact that the NDNA Board of Directors assured the NDNA membership through membership mailings and postings on the NDNA web site that they were not advocating for lowering the educational requirement, many NDNA members reacted to the introduction of HB1245 with the belief that the NDNA Board of Directors was “giving away” entry-into-practice. However, the NDNA Board of Directors did indicate there was a risk that universities and colleges within the ND university system may not continue to support the current educational requirements if the authority to approve nursing programs was transferred to the NDSBHE (NDNA Board of Directors Approves, 2003, January).

The NDNA Board of Directors attempted to explain why schools of nursing should belong under the NDSBHE authority. The NDNA Board of Directors explained that all of the nursing programs in ND were in an institution of higher education where the nursing programs already meet the standards of higher education and they did not need approval of another state agency. Board members cited a study conducted by Hinsvark and Dorsch (1979) who asserted conflict occurred whenever the state board of

nursing has the right to exercise control of nursing programs that are under the jurisdiction of another state department. The rationale given by the NDNA Board of Directors for introducing HB1245 was ineffective at gathering support from the NDNA membership and the nursing community. This created a division within the nursing community that opened a policy window of opportunity for advocates to bring forth their issue that supported reducing the nursing education requirements.

The introduction of HB1245 forced the joining of the problem and political stream that facilitated policy change. The NDNA Board of Directors forced the window open within the policy stream by introducing HB1245. The opening of the policy window allowed the NDLTCA, the NDHA, and the presidents from two community colleges to advocate for multiple levels of nursing education. The existence of a strong voice within the political stream from the NDLTCA and the NDHA helped to keep the policy window open to change the levels of education.

Within the political stream, the NDNA was unable to present a unified position and the leadership necessary to maintain a stable and unified NDNA was absent. As a result, legislators stepped in and created a completely new policy. By doing so, legislators provided a mechanism allowing for an alternative policy change. Long-term care administrators, leaders of community colleges and hospital administrators welcomed the recommendations by legislators to reduce the educational requirements for entry-into-practice. The three streams (problem, policy, and politics) were joined together creating a new policy that developed multiple education levels for entry-into-practice.

The use of John Kingdon's multiple streams model as an analytical framework worked well to pull apart intertwined political conditions and to analyze specific impact

and purpose. The model allowed for separate looks at what is largely seen as a cohesive whole. The Kingdon model demonstrated the streams were running along separately from one another until a window was opened in the policy stream, thus merging to create a fully opened window of opportunity.

Implications for Nursing

What happened in ND illustrated the ongoing conflict regarding who is responsible for setting the educational requirements for nursing. Should it be the state board of higher education, professional regulatory boards, professional associations, accrediting agencies, or other bodies with an interest in what kind of education certain groups receive?

The failure of maintaining a baccalaureate degree for entry-into-practice opened the door for educational institutions to offer diverse qualifications for the preparation of nurses thus compounding the struggle of obtaining entry-into-practice. In nursing, social conditions oftentimes provides the impetus for education to be determined and imposed by the government, education administrators, as well as an array of professionals educated in other disciplines. All too frequently, proposed changes to nursing education are set out as quick-fix solutions to the fiscal and economic woes of healthcare. This was apparent in ND, with the NDLTCA and the NDHA believing the addition of multiple levels of nursing education would address their nursing recruitment and retention problems.

Also nursing will never maintain equal status with other health care professions with the lack of a baccalaureate degree for entry-into-practice. Nurses remain the least educated among professional health care providers as the education gap between nursing

and other health care professions continues to grow. Many healthcare disciplines now require a post baccalaureate degree or clinical doctorate degree for entry-into-practice.

As of January 1, 2002, the Commission on Accreditation in Physical Therapy Education (CAPTE) no longer accredits baccalaureate professional programs and physical therapy programs have decided to make the transition from the professional masters in physical therapy entry-level to the professional clinical doctorate (CAPTE, 2005). For occupational therapy, the professional organization passed a resolution in 1999 that called for the installation of a post baccalaureate entry-level requirement for professional occupational practice. Institutions of higher education will have until January 1, 2007 to initiate post baccalaureate degree programs in occupational therapy (Accreditation Council for Occupational Therapy Education [ACOTE], 2002). Pharmacy also raised their entry-level requirement in 1992, when members of the American Association of Colleges of Pharmacy voted to endorse a four-year professional degree, preceded by a minimum of two years of pre-professional education, designating the Doctor of Pharmacy.

Unlike nursing, advancing the entry-level requirements for these professions was not argued in the legislative arena. The professional organization for each of these professions controlled the educational requirements for entry and developed a strategy to implement the education requirements. A criticism of the ANA when it first introduced the proposed change in educational requirements for nurses in 1965 was that the organization did not have ready any strategies for implementing the recommendation. How did these professions move forth the agenda to advance their education levels for entry-into-practice without the legislative debate that occurred within nursing?

With the complexities of health care and the rapid expansion of knowledge there is pressure again to raise the entry level education for nursing. While ANA is no longer leading the effort to require the baccalaureate degree for entry-into-practice, other professional nursing organizations, such as the American Association of Colleges of Nursing (AACN) and the Association of California Nurse Leaders (ACNL) have published position statements recognizing the baccalaureate degree as the minimal preparation for professional nursing. In 2001, the ACNL developed an initiative to require the baccalaureate degree as the credential for entry-into-practice as a registered nurse by the year 2010. The initiative called for (a) the baccalaureate degree for all new nurses that sit for the NCLEX licensing exam in California beginning in 2010, (b) all nurses licensed before 2010 will be grand-fathered and not required to obtain a baccalaureate degree, and (c) an articulated system of nursing allowing a student who starts in a community college can earn a baccalaureate degree in four years (Barter & McFarland (2001, p. 26).

Since the rescinding of entry-into-practice in ND, the New York State Board of Registered Nursing submitted a proposal to the 2005-2006 New York Legislative Assembly to require all associate degree RNs to obtain a baccalaureate degree. The proposal will require an associate degree prepared nurse to complete a baccalaureate degree within 10 years of licensure. If passed, the act would take effect immediately and the commissioner of education would be authorized to promulgate any rule or regulation to implement the provisions of this act (A08106, 2005-2006 New York State Assembly). To date, no action has been taken by the New York Assembly on this bill. In 2006, the New Jersey State Nurses Association endorsed a resolution to require all entry-level

nurses to obtain a baccalaureate degree within ten years of entering nursing practice. It will be important to follow the processes taken by New York and New Jersey to implement entry-into-practice and learn how their strategy differs from ND.

In other countries, nursing education has moved to the baccalaureate level. In the 1990s, nursing education in Australia and New Zealand became entirely at the baccalaureate level. In the United Kingdom, nursing education is in the process of moving into higher education (Lusk, Russell, & Rodgers, 2001). In Canada, baccalaureate entry-into-practice has been fully implemented in Saskatchewan, and four Atlantic Provinces. Ontario and British Columbia were targeted to implement the baccalaureate entry-into-practice requirement in 2005. Alberta and Quebec provinces and three territories (Yukon, Northwest Territory, and Nunavut) have not implemented the baccalaureate entry-into-practice (Northrup, et.al. 2004). How have these countries been successful in advancing entry-into-nursing practice when the United States has not experienced success? .

Professional associations exist to provide a structure for the use of those within the profession to fulfill their social mandate. Associations also allow their members to band together to provide necessary social and moral support for each other and to achieve ends otherwise impossible for individuals. The nursing profession lost credibility and strength when the leadership of the professional association did not involve the membership in the decision-making process to create new policy. Communication among an organization's membership is imperative. It became clear that the NDNA membership did not understand what was occurring and they felt disenfranchised in not having input in the decision-making process. After the loss of "entry-into-practice" with the passage of

HB1245 many long term NDNA members dropped their membership. Some members have renewed their membership; however, many have not renewed their membership. Before an organization decides to propose a new idea to solve a problem, it is imperative to prepare the involved community. Kingdon (1995) summed up how important it is to prepare the way for a proposal to be taken seriously by stating, “A lot of preconditioning has to happen....There has to be a lot of preconditioning, a lot of maneuvering in the first place....It really doesn’t make a lot of difference where it comes from. The critical thing is that the preconditioning has taken place” (p. 130). This could be stated as follows: for successful agenda achievement, there must be consensus within the initiating group.

It is important for entrepreneurs to “soften up” both the interest community and the policy community. Kingdon (1995) explained “it takes a long time to educate people. And once you get them educated, you have to build up some power to do something” (Kingdon, 1995 p. 128.) Softening up the interest community and the policy community helps insure that the relevant public is ready when its time comes. Kingdon wrote (1984), “Getting people to see new problems, or to see old problems in one way rather than another, is a major conceptual and political accomplishment” (p. 121).

One purpose of the NDNA’s organizational restructuring was to increase participation by NDNA membership. However, it appears there was a lack of communication between NDNA Board of Directors and the members of NDNA.

Recommendations for Further Research

This study explained the process that rescinded the nursing education requirements for entry-into-practice in ND after experiencing entry-into-practice for 17 years. To understand why entry-into-practice became such a hotly debated issue in ND, it

may be helpful to return to our original goal of entry-into-practice and reflect on what occurred and what strategies were used that prompted the legislative debates.

Nursing may also look to other professions that have been successful in advancing their entry-level. One question is how have other professions advanced their entry-level education requirements without a legislative battle? What strategies did they use that were different from nursing? A multiple case-study approach may be helpful in exploring how other health care professions moved forth in advancing their entry-level education requirements.

Another area of research would be to review the accrediting process for nursing programs. Currently, there are two national nursing accrediting bodies. One is the National League for Nursing Accrediting Commission (NLNAC) which is recognized by the U.S. Department of Education. The NLNAC accredits all types of nursing education programs, including baccalaureate and higher degree, associate degree and diploma RN programs and LPN programs. The second accrediting body is the Commission on Collegiate Nursing Education (CCNE), which accredits only baccalaureate and graduate education programs. Both accrediting bodies are separate entities from the professional nursing organization. What effect does having the accrediting body separate from the professional organization have on the move toward obtaining a uniform entry-level education? Also what effect does two differing accrediting bodies have on advancing the entry-level of nursing education?

To determine the effectiveness of the passage of HB1245 the following questions need to be asked:

1. What is the effect on the supply and demand for nurses within the state, in both the educational and practice settings?
2. What is the effect on the retention and recruitment of nurses in rural communities and long-term care facilities within the state?
3. What impact will multiple levels of nursing education have on patient outcomes?
4. Will employers differentiate levels of practice based on education levels?

Other questions raised within the study may also provide a basis for future discussion and exploration of NDNA's organizational structure that would promote communication, decision-making, and group interactions among NDNA members. This could enable NDNA members within the association to become more effective in their governance responsibilities.

Conclusions

After analyzing, the interviews and documents three major themes emerged from this study: (a) NDNA members did not understand the rationale for HB1245, and they felt disenfranchised after fighting for 17 years to maintain entry-into-practice; (b) Tension existed between NDNA and NDBON; and (c) HB1245 was ever changing taking multiple turns during the legislative process, making it very difficult for NDNA members and legislators to understand and follow.

If it was the intent of the NDNA Board of Directors to merely float an alternative to remove the control of nursing programs from the NDBON they failed. The proposal was used by critics to further weaken NDNA politically. Moreover, such a proposal automatically threatened the interests of the NDNA membership and the nursing

community. They were outraged and vocal in their displeasure. Thus, not only was NDNA being attacked but the nursing community became divided.

The subsystem of nursing allowed those challenging the educational requirements for nursing an easy opening because the nursing community was unable to effectively organize into an “impressive collection of interest groups whose major purpose is to protect the program from which they draw their sustenance” (Kingdon, 1995, pg. 152). The nursing community was no longer unified and as a result had little political capital to expend. Moreover, because the nursing community was unable to present a consensus position, its policy monopoly was breaking down and new actors stepped in with alternate viewpoints and better organizational capabilities.

It is hoped the research presented here will contribute to the understanding of the agenda-setting process that occurred during the 58th ND Legislative Assembly, which reduced the education requirements for entry-into-nursing practice. For a group to be politically astute it is important for them to read the political landscape for the emergence of the streams as described in Kingdon’s multiple streams model. As a result, the group would be better prepared to position policy entrepreneurs to couple or join the streams creating a window of opportunity for a new direction for policy change.

APPENDICES

APPENDIX A

NDLTCA SURVEY

We anticipate being asked our position on Entry into Practice for nurses. Our past position was neutral with each individual facility taking their own position. We need your input to help determine our position for the 2003 Legislative Session. Please answer the following questions and send your response to the Association by August 31, 2002.

1. Should the North Dakota Long Term Care Association take a position (for or against) the Entry-into-Practice issue for nurses?

_____ yes _____ no

2. If yes, what should our position be:

_____ Allow two year and Baccalaureate level nursing education for RNs

_____ Allow one year and Associate level nursing education for LPNs

_____ Continue with the existing requirement of Baccalaureate degree RNs and Associate degree LPNs

3. Comments: _____

APPENDIX B
HB 1245 AS INTRODUCED

30394.0100

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1245

Introduced by

Representatives Keisor, Devlin, Porter

Senators Klein, Krebsbach, O'Connell

1 A BILL for an Act to amend and reenact subsection 10 of section 15-20.4-02, section
2 43-12.1-02, subsection 2 of section 43-12.1-04, and sections 43-12.1-08 and 43-12.1-09 of the
3 North Dakota Century Code, relating to nursing education programs.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 10 of section 15-20.4-02 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 10. ~~Schools of nursing regulated under chapter 43-12.1 Nursing education programs~~
8 ~~offered by institutions of higher education under the control of the state board of~~
9 ~~higher education.~~

10 **SECTION 2. AMENDMENT.** Section 43-12.1-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-12.1-02. Definitions.** In this chapter, unless the context or subject matter otherwise
13 requires:

- 14 1. "Advanced practice registered nurse" means a person who holds a current license
15 to practice in this state as an advanced practice registered nurse and either has a
16 graduate degree with a nursing focus or has completed the educational
17 requirements in effect when the person was initially licensed.
- 18 2. "Board" means the North Dakota board of nursing.
- 19 3. "Licensed practical nurse" means a person who holds a current license to practice
20 in this state as a licensed practical nurse ~~and either has an associate degree with a~~
21 ~~major in nursing or has completed the educational requirements in effect when the~~
22 ~~person was initially licensed.~~
- 23 4. "Nurse" means any person currently licensed as an advanced practice registered
24 nurse, registered nurse, or licensed practical nurse.

- 1 5. "Nursing" means the performance of acts utilizing specialized knowledge, skills,
2 and abilities for people in a variety of settings. Nursing includes the following acts,
3 which may not be deemed to include acts of medical diagnosis or treatment or the
4 practice of medicine as defined in chapter 43-17:
 - 5 a. The maintenance of health and prevention of illness.
 - 6 b. Diagnosing human responses to actual or potential health problems.
 - 7 c. Providing supportive and restorative care and nursing treatment, medication
8 administration, health counseling and teaching, case finding and referral of
9 persons who are ill, injured, or experiencing changes in the normal health
10 processes.
 - 11 d. Administration, teaching, supervision, delegation, and evaluation of health and
12 nursing practices.
 - 13 e. Collaboration with other health care professionals in the implementation of the
14 total health care regimen and execution of the health care regimen prescribed
15 by a health care practitioner licensed under title 43.
- 16 6. "Prescriptive practices" means assessing the need for drugs, immunizing agents,
17 or devices and writing a prescription to be filled by a licensed pharmacist.
- 18 7. "Registered nurse" means a person who holds a current license to practice in this
19 state as a registered nurse ~~and either has a baccalaureate degree with a major in~~
20 ~~nursing or has completed the educational requirements in effect when the person~~
21 ~~was initially licensed.~~
- 22 8. "Specialty practice registered nurse" means a person who holds a current license
23 to practice in this state as a specialty practice registered nurse and has the
24 educational preparation and national certification within a defined area of nursing
25 practice.
- 26 9. "Transitional practical nurse license" means a license issued by the board to a
27 person who meets all of the requirements for licensure by endorsement as a
28 licensed practical nurse, except the educational requirements.
- 29 10. "Transitional registered nurse license" means a license issued by the board to a
30 person who meets all of the requirements for licensure by endorsement as a
31 registered nurse, except the educational requirements.

1 11. "Unlicensed assistive person" means an assistant to the nurse who regardless of
2 title is authorized by the board to perform nursing interventions delegated and
3 supervised by a licensed nurse.

4 **SECTION 3. AMENDMENT.** Subsection 2 of section 43-12.1-04 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 2. Students practicing nursing as a part of a ~~board-approved~~ nursing education
7 program that meets the minimum standards for nursing education programs.

8 **SECTION 4. AMENDMENT.** Section 43-12.1-08 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-12.1-08. Powers and duties of the board.** The board shall regulate the practice of
11 nursing to assure that qualified competent practitioners and high quality standards are
12 available. Regulation of the profession of nursing must ensure that no person may practice or
13 offer to practice nursing or use titles of advanced practice registered nurse, specialty practice
14 registered nurse, registered nurse, licensed practical nurse, or unlicensed assistive person, or
15 titles of a similar nature which denote the practice of nursing to the general public unless
16 licensed or registered as provided in this chapter. The board shall:

- 17 1. Enforce the provisions of this chapter. The board has all of the duties, powers, and
18 authority specifically granted by and necessary for the enforcement of this chapter.
- 19 2. Adopt rules necessary to administer this chapter.
- 20 3. Appoint and employ a qualified registered nurse to serve as executive director and
21 approve any additional staff positions necessary to administer this chapter.
- 22 4. Establish fees and receive all moneys collected under this chapter and authorize
23 all expenditures necessary to conduct the business of the board. Any balance of
24 fees after payment of expenditures must be used to administer this chapter.
- 25 5. Establish qualifications for nursing licensure and registration.
- 26 6. Establish standards for nursing ~~education and~~ practice and:
 - 27 a. Collaborate and consult with the appropriate nursing organizations and other
28 affected parties in the establishment of the standards; and
 - 29 b. Consult with the medical profession in the establishment of prescriptive
30 practice standards for advanced practice registered nurses. Prescriptive
31 practices must be consistent with the scope of practice of the advanced

- 1 practice registered nurse and include evidence of a collaborative agreement
2 with a licensed physician.
- 3 7. ~~Periodically review and approve~~ Accept for licensure the graduates of nursing
4 education programs that are approved by the state board of higher education or
5 that are accredited by national nursing accreditation programs which are in
6 academic settings and offer transferable credit.
- 7 8. License and register applicants and renew and reinstate licenses and registrations.
- 8 9. Establish standards for assessing the competence of licensees and registrants
9 continuing in or returning to practice.
- 10 10. Collect and analyze data regarding nursing education, nursing practice, and
11 nursing resources.
- 12 11. Issue limited licenses to individuals requiring accommodation to practice nursing.
- 13 12. Establish confidential programs for the rehabilitation of nurses with workplace
14 impairments.
- 15 13. Discipline applicants, licensees, and registrants for violating this chapter.
- 16 14. Establish a nursing student loan program funded by license fees to encourage
17 persons to enter and advance in the nursing profession.
- 18 15. Establish a registry of persons licensed or registered by the board.
- 19 16. Collaborate and consult with the North Dakota nurses association, North Dakota
20 licensed practical nurses association, and other nursing specialty groups prior to
21 the adoption of rules.
- 22 17. Report annually to the governor and nursing profession regarding the regulation of
23 nursing in the state.
- 24 18. Conduct and support projects pertaining to nursing education and practice.
- 25 19. Notify the board of pharmacy on an annual basis, or more frequent basis if
26 necessary, of advanced practice registered nurses authorized to write
27 prescriptions.
- 28 20. Adopt rules to allow nurses licensed by another state to receive short-term clinical
29 education in North Dakota health care facilities.
- 30 **SECTION 5. AMENDMENT.** Section 43-12.1-09 of the North Dakota Century Code is
31 amended and reenacted as follows:

APPENDIX C
CHAPTER 400 NURSE PRACTICES ACT 1977

OCCUPATIONS AND PROFESSIONS

CHAPTER 400

874.

CHAPTER 400

HOUSE BILL NO. 1299
(Wagner, Mund)

NURSE PRACTICES ACT

AN ACT to create and enact a new chapter to title 43, a new section to chapter 43-12, and a new subsection to section 43-12-31 of the North Dakota Century Code, relating to the regulation of nursing, the provision for a state board of nursing, and the definition of powers and duties of the board, including licensure of practitioners of nursing, establishment of standards for educational programs preparing for nursing practice, and definitions and collection procedures for nursing scholarship loans; and to repeal sections 43-12-01 through 43-12-26 and chapter 43-21 of the North Dakota Century Code, relating to professional nurses and practical nurses; and to provide a penalty.

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

SECTION 1.) A new chapter to title 43 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATEMENT OF POLICY.) The legislative assembly finds that the practice of nursing is directly related to the public welfare of the citizens of the state of North Dakota and is subject to regulation and control in the public interest to assure that competent practitioners and high quality standards are available. It is essential to govern qualifications for licensure with requirements for the maintenance of high standards and to state sanctions by which an illicit, unqualified, dishonest person or one that is otherwise against the public interest can be disciplined. This Act shall be liberally construed in order to carry out its purposes and objectives.

TITLE OF CHAPTER.) This chapter shall be known and cited as the "Nurse Practices Act".

DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota board of nursing.
2. "Licensed practical nurse" means one who has met all

legal requirements for licensure and holds a current license to practice in this state as a licensed practical nurse.

3. The "practice of nursing as a licensed practical nurse" is defined as the performance of those services, requiring the basic knowledge of biological science and technical skills, commonly performed by a licensed practical nurse under the direction of a registered nurse, licensed physician, or dentist for the purpose of:
 - a. The maintenance of health and prevention of illness.
 - b. The observation and nursing care of persons experiencing changes in their health processes.
 - c. Administering prescribed medications and treatments.
 - d. Teaching and evaluating health practices of patients.
 - e. Providing specialized nursing care when such service is authorized by the board through its rules and regulations and delegated by a registered nurse, physician, or dentist, to a licensed practical nurse who has had additional preparation or experience.
4. "Registered nurse" means one who has met all legal requirements for licensure and holds a current license to practice in this state as a registered nurse.
5. The "practice of nursing as a registered nurse" is defined as the performance of acts requiring the specialized knowledge, judgment, and skill based on principles of the biological, physical, behavioral, and social sciences in:
 - a. The maintenance of health and prevention of illness.
 - b. Diagnosing human responses to actual or potential health problems.
 - c. Providing supportive and restorative care, health counseling and teaching, case finding and referral of persons who are ill, injured, or experiencing changes in the normal health processes.
 - d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
 - e. Collaboration in the implementation of the total health care regimen and execution of a medical regimen as prescribed or authorized by a licensed physician or dentist and the performance of such additional acts which are recognized by the nursing profession, in connection with the medical profession, as proper to

be performed by registered nurses who have had additional specialized preparation and are authorized by the board through its rules and regulations to perform such acts.

LICENSE REQUIRED - TITLE - ABBREVIATION.) All persons who practice as a registered nurse or a practical nurse for direct or indirect compensation in this state must hold a current valid license from this state. A person who holds a current valid license to practice as a registered nurse in this state may use the title "registered nurse" and the abbreviation "R.N.". A person who holds a current valid license to practice as a practical nurse in this state may use the title "licensed practical nurse" and the abbreviation "L.P.N.". No other person shall assume or claim any such title or abbreviations.

PERSONS EXEMPT FROM PROVISIONS OF CHAPTER.) This chapter shall not apply to:

1. Persons who give nursing assistance in cases of emergency or disaster.
2. Students practicing nursing as a part of a board approved nursing education program.
3. Legally licensed nurses of another state who are employed in this state by the United States government or a bureau, division, or agency thereof.
4. Legally licensed nurses of another state or Canada, whose employment requires them to accompany and care for a patient who is in transit for medical treatment.

BOARD OF NURSING - COMPOSITION - TERM OF OFFICE.) There shall be a state board of nursing whose members shall be appointed by the governor which shall consist of five registered nurses, three licensed practical nurses, and one public member. Sixty days prior to the expiration of the term of any registered nurse member, the North Dakota state nurses association and any other duly organized professional nursing organization recognized by the state board of nursing shall submit to the governor a list of registered nurses qualified to serve; such list to contain in number at least three names for each vacancy to be filled. Sixty days prior to the expiration of the term of any licensed practical nurse member, the North Dakota licensed practical nurses association shall submit to the governor a list of licensed practical nurses qualified to serve; the list shall contain in number at least three names for each vacancy to be filled. The governor shall appoint to the board a public member. Each board member shall be appointed for a term of three years. No appointee shall be appointed for more than two consecutive terms. An appointment for an unexpired term of more than eighteen months will constitute a full term. The members of the North Dakota board of nursing holding office on the effective date of this Act shall serve as members of the board until the expiration of their respective terms or until their successors have been appointed.

QUALIFICATIONS OF BOARD MEMBERS.)

1. Each registered nurse board member must be:
 - a. A citizen of the United States, a resident of North Dakota for two years, and currently residing in North Dakota.
 - b. A current holder of a valid North Dakota license to practice as a registered nurse.
 - c. Experienced for at least five years in nursing and currently engaged in the practice of nursing in North Dakota.
2. Each licensed practical nurse board member must be:
 - a. A citizen of the United States, a resident of North Dakota for two years, and currently residing in North Dakota.
 - b. A current holder of a valid North Dakota license to practice as a licensed practical nurse.
 - c. Experienced for at least five years as a licensed practical nurse and currently engaged in the practice of practical nursing in North Dakota.
3. Each public member must be:
 - a. A citizen of the United States, a resident of North Dakota for two years, and currently residing in North Dakota except any person or his or her spouse who:
 - (1) Is a licensee of any health occupation board.
 - (2) Is an employee of any health care facility, agency, or corporation authorized to underwrite health care insurance.
 - (3) Has financial interests in or is engaged in the governance and administration of a health care facility, agency, or corporation.
 - (4) Is a salaried employee of state or federal agencies providing health care delivery.

COMPENSATION OF BOARD MEMBERS.) In addition to the expenses incurred while engaged in the performance of the duties of his office, each board member shall receive a per diem fee set by the board not to exceed fifty dollars.

POWERS AND DUTIES OF THE BOARD.) The board shall:

1. Maintain an office to conduct business.
2. Employ an executive director and such other professional and secretarial staff as may be required.
3. Establish fees and receive all moneys collected under this chapter.
4. Authorize all expenditures necessary for conducting the business of the board. Any balance of such fees after payment of expenditures is to be used in administering the provision of this chapter.
5. Report all receipts and expenditures of said funds at the close of each fiscal year to the governor.
6. Establish standards for all nursing education programs or acknowledge programs accredited by national nursing accrediting agencies.
7. Conduct surveys as necessary of nursing education programs required to meet board standards.
8. Approve such nursing education programs which meet board standards.
9. Conduct a licensing examination at least once a year for entry into practice as a registered nurse or licensed practical nurse.
10. License candidates who qualify by examination as registered nurses or licensed practical nurses.
11. Maintain a permanent register of the names of all persons to whom licenses to practice as a registered nurse or a licensed practical nurse are issued. Such register shall be open to public inspection.
12. Renew licenses periodically.
13. Promulgate rules and regulations, pursuant to chapter 28-32 of the North Dakota Century Code, for renewal of licenses after an absence of five years from the active practice of nursing.
14. Discipline licensees as necessary.
15. Establish standards for quality of practice for registered nurses and licensed practical nurses after consultation with the North Dakota state nurses association, the North Dakota licensed practical nurses association, and other professional nursing groups.

16. Establish standards for quality of practice for registered nurses and licensed practical nurses functioning in specialized roles after consultation with the North Dakota state nurses association, the North Dakota licensed practical nurses association, and other recognized nursing speciality groups.
17. Execute any legitimate project pertaining to nursing education or practice.
18. Promulgate and adopt such rules and regulations, pursuant to chapter 28-32 of the North Dakota Century Code, as are necessary to carry out the provisions of this chapter. Involve active participation of all appropriate state education agencies and representatives of public and proprietary institutions, which are involved in, and responsible for, funding and/or operation of such programs, in the establishment of such standards and approval of programs.
19. Conduct public hearings before adopting any rules and regulations or standards.

REMOVAL FROM BOARD.) The governor may remove any member of the board of nursing for cause upon recommendation of two-thirds of the members of the board.

LICENSE BY EXAMINATION.) Any person who desires to practice as a registered nurse or licensed practical nurse in this state shall be required to write and pass the licensing examination given by the board. Such persons shall file a certified written application for license by examination at least thirty days before the examination accompanied by the prescribed fee and submit satisfactory proof of having the following qualifications:

1. Satisfactory completion of the appropriate nursing education program in another country or the appropriate nursing education program approved by a board of nursing in the United States.
2. Recommended to the board by the nursing faculty of the completed nursing education program.

A temporary permit to engage in the practice of nursing in the state of North Dakota may be issued by the North Dakota board of nursing to an applicant from the United States or Canada who gives evidence of intention to engage in the practice of nursing in North Dakota between the dates of graduation and notification of the results of the first licensing examination for which the applicant is eligible within the state of North Dakota. The temporary permit for the graduate shall expire upon notification of the results of the first licensing examination.

LICENSE.- WHEN ISSUED.) Upon satisfactory completion of the

licensing examination for registered nurses or licensed practical nurses, the board shall issue a certificate of registration. A current license to practice will be issued upon proof that the applicant is a resident of North Dakota or upon verification of employment in North Dakota or a federal agency.

LICENSE BY ENDORSEMENT.) The board may issue a license to practice as a registered nurse or licensed practical nurse to an applicant from another state by endorsement if the applicant:

1. Has satisfactorily completed a nursing education program in another country or a nursing education program approved by a board of nursing in the United States.
2. Has been duly licensed in another state or country on the basis of passing a licensing examination acceptable to the board.
3. Is a resident of North Dakota or has accepted employment in North Dakota. Upon receipt of the completed application for license by endorsement, payment of fee as set by the board and evidence that an applicant will meet all the requirements for licensure in North Dakota, the board may issue a temporary permit to practice as a registered nurse or licensed practical nurse in this state until the license is issued. Such temporary permit shall expire at the end of ninety days and may be renewed only for reasons satisfactory to the board.

RENEWAL OF LICENSE.) The board shall renew nursing licenses periodically and may promulgate rules and regulations, pursuant to chapter 28-32 of the North Dakota Century Code, after consultation with duly organized professional nursing organizations recognized by the state board of nursing and with employers of nurses, to determine eligibility for renewal of license before reissuing such licenses. Upon meeting board requirements for renewal of license and paying the renewal fee as set by the board, a current license will be issued. Any person holding a license to practice nursing as a registered nurse or a licensed practical nurse issued by the board which is valid on July 1, 1977, shall thereafter be deemed to be licensed as a registered nurse or licensed practical nurse under the provisions of this Act. If a registered nurse or a licensed practical nurse fails to renew his license by January first of the appointed year, the license may be reinstated if the licensee meets the requirements set by the board. Any nurse who voluntarily placed his name on the roster of inactive nurses between the years 1957 to July 1, 1977, may be relicensed by meeting board requirements for renewal of license.

GROUND FOR DISCIPLINE.) The board shall have the power to discipline licensees as necessary by reprimanding the licensee, placing the licensee on probationary status, denying, suspending, or revoking a license or permit to practice nursing issued in accordance with this chapter, if the person is found:

1. To be guilty of fraud or deceit in procuring or attempting to procure a license or permit to practice nursing.
2. To have had a license to practice nursing suspended or revoked in another jurisdiction which has not been reinstated.
3. To have been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a nurse, or when the board determines, following conviction of any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1.
4. To be guilty of unprofessional conduct likely to deceive, defraud, or harm the public.
5. To be practicing nursing incompetently by reason of negligent acts.
6. To be mentally or physically unsafe for nursing practice.
7. To be guilty of willfully and repeatedly violating the provisions of this chapter.

Any person may file a written sworn complaint with the executive director of the board, charging a licensee with having been guilty of any of the actions specified as grounds for discipline. The board shall fix a time and place for a hearing. A copy of the complaint, specifying the charges against the licensee with reasonable clarity, together with a notice of the time and place fixed for the hearing shall be served on the accused personally or by registered mail at least twenty days before the hearing. The notice shall inform the party proceeded against that unless an answer to the complaint is received by the board at least three days before the hearing, the board shall proceed with the hearing. Subpoenas issued by the board and served in accordance with the law, shall compel the attendance of witnesses and shall cause evidence to be produced at the hearing. The board shall administer such oaths as may be necessary for the proper conduct of the hearings. The accused shall have the right to appear personally or be represented by counsel, or both, to produce witnesses or evidence in his own behalf, to cross examine witnesses, and to have subpoenas issued by the board. The board shall keep a verbatim transcript record of all proceedings at any hearing which is conducted for disciplinary purposes. If the accused is found guilty of the charges, the board may reprimand the licensee, place the licensee on probationary status, deny, suspend, or revoke a license. A suspended license may be reinstated at any time by the board. A revoked license may be re-issued after one year at the board's discretion. An appeal from the final decision of the board, which suspends or revokes a license to practice nursing in this state may be taken to the district court of Burleigh County in accordance with the provision of chapter 28-32. The board shall furnish to the boards of nursing of other states, and to health agencies of this state, a list of the names and addresses of persons whose licenses have been revoked or suspended for cause.

VIOLATION - PENALTIES.) No person or persons shall:

1. Buy or sell, fraudulently obtain, or furnish any questions and answers used in the licensing examination for nurses, or assist others in the performance of these acts.
2. Buy or sell, fraudulently obtain, or furnish any record which might enable a person to obtain a license in this state or assist others in the performance of these acts.
3. Practice as a registered nurse or a licensed practical nurse as defined in this chapter under cover or a transcript from a school of nursing, diploma, certificate of registration, license, or record which was fraudulently obtained.
4. Practice as a registered nurse or a licensed practical nurse as defined by this chapter unless duly licensed to do so.
5. Conduct a nursing education program for the preparation of registered nurses or licensed practical nurses unless the program has been approved by the board.

Any violation of this section shall be a class B misdemeanor.

SECTION 2.) A new section to chapter 43-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEFINITIONS.) In sections 43-12-27 through 43-12-31, unless the context or subject matter otherwise requires:

1. "Practical nurse student" means one who has met all the requirements for enrollment in an approved course for practical nursing.
2. "Professional graduate nurse" means a person who has met all legal requirements for licensure in this state and has been registered by the state board, who practices or holds a position by virtue of the person's professional knowledge and legal status, and who holds a license from the state board for the current year.
3. "State board" means the North Dakota board of nursing.
4. "Student of nursing" means one who has met all the requirements for enrollment in an approved school of nursing.

SECTION 3.) A new subsection to section 43-12-31 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

6. After demand for payment of a scholarship loan has been

made by the state board and payment is not made by collection or cancellation, the state board may contract with collection agencies located in the state for the collection of amounts due the state for scholarship loans granted.

* SECTION 4. REPEAL.) Sections 43-12-01 through 43-12-26 of the 1975 Supplement to the North Dakota Century Code and chapter 43-21 of the North Dakota Century Code are hereby repealed.

*NOTE: Subsection 2 of section 43-12-22 was amended by section 27 of Senate Bill No. 2058, chapter 130. A new section to chapter 43-21 was created by section 38 of Senate Bill No. 2058, chapter 130.

Approved April 6, 1977

APPENDIX D
CONSENT FORM

Participant Consent Form for

Title of Project: Case Study of HB 1245: Nursing Education in North Dakota
Date: 10/03

My name is Wanda Rose; I am a PhD student at the University of North Dakota. I would like to invite you to participate in a study to explore legislation that occurred during the 2003 (58th) Legislative Session that affects the educational preparation for nursing in North Dakota. I am inviting you to participate in this study because of your involvement in the legislative process by which this legislation became effective in North Dakota.

If you are willing to participate, I will conduct one (1) to three (3) interviews at a place and time agreeable to both of us. The interviews will be tape-recorded and will last no more than one (1) hour in length. There are no foreseeable risks to participating in this study. There will be no personal benefit to participating in this study. Your decision whether to participate or not to participate will not prejudice any future relations. If you decide to participate, you are free to discontinue participation at any time without it being held against you.

Any information that is obtained in connection with this study and that can be identified with you will remain confidential and will be disclosed only with your permission. I will be the only one with access to the tapes and their transcripts and the only one who will know the code name given to your file. **IRB auditors may also have access to the data.** I will keep them secured in separate locked receptacles for the three years they will be in existence after the completion of this study. When I have finished with them I will dispose of both in a manner that will render them useless. You will be given a copy of your informed consent at the first interview or mailed to you prior to the initial interview.

If you have any questions about the study, you can reach me at (701)-222-2327 or my Advisor, Dr. Kathleen Gershman at (701)-777-3517 at the University of North Dakota. If you have any other questions or concerns about the rights of research subjects please call the Office of Research and Program Development at (701) 777-4279

Your signature indicates that you have read the information provided above and have decided to participate. You may withdraw at any time without any consequences after signing this form should you choose to discontinue participation in the study. I have read all of the above and willingly agree to participate in this study.

Signature _____ Phone Number _____
(Participant)

Date _____

University of North Dakota
Institutional Review Board
Approved on DEC 15 2003
Expires on DEC 14 2004

APPENDIX E
HB 1245 FIRST ENGROSSMENT WITH HOUSE AMENDMENTS

30394.0200

FIRST ENGROSSMENT

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1245

Introduced by

Representatives Keiser, Devlin, Porter

Senators Klein, Krebsbach, O'Connell

1 A BILL for an Act to create and enact a new subsection to section 43-12.1-10 and a new
2 section to chapter 43-12.1 of the North Dakota Century Code, relating to transitional nurse
3 licensure and continuing education; to amend and reenact section 43-12.1-02, subsection 2 of
4 section 43-12.1-04, and sections 43-12.1-08 and 43-12.1-09 of the North Dakota Century
5 Code, relating to nursing education programs; and to provide for application.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 43-12.1-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-12.1-02. Definitions.** In this chapter, unless the context or subject matter otherwise
10 requires:

- 11 1. "Advanced practice registered nurse" means a person who holds a current license
12 to practice in this state as an advanced practice registered nurse and either has a
13 graduate degree with a nursing focus or has completed the educational
14 requirements in effect when the person was initially licensed.
- 15 2. "Board" means the North Dakota board of nursing.
- 16 3. "Licensed practical nurse" means a person who holds a current license to practice
17 in this state as a licensed practical nurse ~~and either has an associate degree with~~
18 ~~a major in nursing or has completed the educational requirements in effect when~~
19 ~~the person was initially licensed.~~
- 20 4. "Nurse" means any person currently licensed as an advanced practice registered
21 nurse, registered nurse, or licensed practical nurse.
- 22 5. "Nursing" means the performance of acts utilizing specialized knowledge, skills,
23 and abilities for people in a variety of settings. Nursing includes the following acts,

- 1 which may not be deemed to include acts of medical diagnosis or treatment or the
2 practice of medicine as defined in chapter 43-17:
- 3 a. The maintenance of health and prevention of illness.
 - 4 b. Diagnosing human responses to actual or potential health problems.
 - 5 c. Providing supportive and restorative care and nursing treatment, medication
6 administration, health counseling and teaching, case finding and referral of
7 persons who are ill, injured, or experiencing changes in the normal health
8 processes.
 - 9 d. Administration, teaching, supervision, delegation, and evaluation of health
10 and nursing practices.
 - 11 e. Collaboration with other health care professionals in the implementation of the
12 total health care regimen and execution of the health care regimen prescribed
13 by a health care practitioner licensed under title 43.
- 14 6. "Prescriptive practices" means assessing the need for drugs, immunizing agents,
15 or devices and writing a prescription to be filled by a licensed pharmacist.
- 16 7. "Registered nurse" means a person who holds a current license to practice in this
17 state as a registered nurse ~~and either has a baccalaureate degree with a major in~~
18 ~~nursing or has completed the educational requirements in effect when the person~~
19 ~~was initially licensed.~~
- 20 8. "Specialty practice registered nurse" means a person who holds a current license
21 to practice in this state as a specialty practice registered nurse and has the
22 educational preparation and national certification within a defined area of nursing
23 practice.
- 24 9. "Transitional practical nurse license" means a license issued by the board to a
25 person who meets all of the requirements for licensure by endorsement as a
26 licensed practical nurse, except the educational requirements.
- 27 10. "Transitional registered nurse license" means a license issued by the board to a
28 person who meets all of the requirements for licensure by endorsement as a
29 registered nurse, except the educational requirements.

1 11. "Unlicensed assistive person" means an assistant to the nurse who regardless of
2 title is authorized by the board to perform nursing interventions delegated and
3 supervised by a licensed nurse.

4 **SECTION 2. AMENDMENT.** Subsection 2 of section 43-12.1-04 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 2. ~~Students~~ A student practicing nursing as a part of a ~~board-approved~~ nursing
7 education program preparing for initial or advanced licensure as a registered nurse
8 or licensed practical nurse which is located in an institution of higher education that
9 offers transferable credit.

10 **SECTION 3. AMENDMENT.** Section 43-12.1-08 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-12.1-08. Powers and duties of the board.** The board shall regulate the practice of
13 nursing to assure that qualified competent practitioners and high quality standards are
14 available. Regulation of the profession of nursing must ensure that no person may practice or
15 offer to practice nursing or use titles of advanced practice registered nurse, specialty practice
16 registered nurse, registered nurse, licensed practical nurse, or unlicensed assistive person, or
17 titles of a similar nature which denote the practice of nursing to the general public unless
18 licensed or registered as provided in this chapter. The board shall:

- 19 1. Enforce the provisions of this chapter. The board has all of the duties, powers,
20 and authority specifically granted by and necessary for the enforcement of this
21 chapter.
- 22 2. Adopt rules necessary to administer this chapter.
- 23 3. Appoint and employ a qualified registered nurse to serve as executive director and
24 approve any additional staff positions necessary to administer this chapter.
- 25 4. Establish fees and receive all moneys collected under this chapter and authorize
26 all expenditures necessary to conduct the business of the board. Any balance of
27 fees after payment of expenditures must be used to administer this chapter.
- 28 5. Establish qualifications for nursing licensure and registration.
- 29 6. Establish standards for nursing education and practice and:
- 30 a. Collaborate and consult with the appropriate nursing organizations and other
31 affected parties in the establishment of the standards; and

- 1 b. Consult with the medical profession in the establishment of prescriptive
2 practice standards for advanced practice registered nurses. Prescriptive
3 practices must be consistent with the scope of practice of the advanced
4 practice registered nurse and include evidence of a collaborative agreement
5 with a licensed physician.
- 6 7. ~~Periodically review and approve~~ Establish standards for nursing education
7 programs ~~leading to licensure and collaborate with nursing education program~~
8 approval organizations and accreditation organizations. The board may not restrict
9 the offering in this state of nursing programs accredited by the national league for
10 nursing accrediting commission, or the commission on collegiate nursing
11 education.
- 12 8. License and register applicants and renew and reinstate licenses and registrations.
- 13 9. ~~Establish standards for assessing the competence of licensees and registrants~~
14 ~~continuing in or returning to practice~~ Approve for licensure graduates of nursing
15 education programs that are recognized by the board or that are accredited by
16 national nursing program accreditation organizations that are recognized by the
17 board. However, a graduate of a nursing education program that is not located in
18 the United States, Canada, or the United States' possessions or territories must
19 have a baccalaureate degree in order to be licensed as a registered nurse. The
20 board may not restrict the offering in this state of nursing programs accredited by
21 the national league for nursing accrediting commission, incorporated, or the
22 commission on collegiate nursing education.
- 23 10. Collect and analyze data regarding nursing education, nursing practice, and
24 nursing resources.
- 25 11. Issue limited licenses to individuals requiring accommodation to practice nursing.
- 26 12. Establish confidential programs for the rehabilitation of nurses with workplace
27 impairments
- 28 13. Discipline applicants, licensees, and registrants for violating this chapter.
- 29 14. Establish a nursing student loan program funded by license fees to encourage
30 persons to enter and advance in the nursing profession.
- 31 15. Establish a registry of persons licensed or registered by the board.

- 1 16. Collaborate and consult with the North Dakota nurses association, North Dakota
- 2 licensed practical nurses association, and other nursing specialty groups prior to
- 3 the adoption of rules.
- 4 17. Report annually to the governor and nursing profession regarding the regulation of
- 5 nursing in the state.
- 6 18. Conduct and support projects pertaining to nursing education and practice.
- 7 19. Notify the board of pharmacy on an annual basis, or more frequent basis if
- 8 necessary, of advanced practice registered nurses authorized to write
- 9 prescriptions.
- 10 20. Adopt rules to allow nurses licensed by another state to receive short-term clinical
- 11 education in North Dakota health care facilities.

12 **SECTION 4. AMENDMENT.** Section 43-12.1-09 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-12.1-09. Licensure - Registration.** Each applicant who successfully meets the
15 requirements of this section is entitled to initial licensure or registration as follows:

- 16 1. An applicant for licensure by examination to practice as a registered nurse or
- 17 licensed practical nurse shall:
 - 18 a. Submit a completed application and appropriate fee as established by the
 - 19 board;
 - 20 b. Submit an official transcript showing completion of a ~~board-approved~~ nursing
 - 21 education program preparing for the level of licensure sought; and
 - 22 c. Pass an examination approved by the board.
- 23 2. An applicant for licensure by endorsement to practice as a registered nurse or
- 24 licensed practical nurse shall:
 - 25 a. Submit a completed application and appropriate fee as established by the
 - 26 board;
 - 27 b. Submit an official transcript showing completion of a nursing education
 - 28 program ~~equal to or exceeding the requirements for nursing education~~
 - 29 ~~programs in place in this state at the time the applicant qualified for initial~~
 - 30 licensure preparing for the level of licensure sought;

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- 1 c. Submit proof of initial licensure by examination with the examination meeting
2 the state requirements for licensure examinations in effect at the time the
3 applicant qualified for initial licensure; and
4 d. Submit evidence of current unencumbered licensure in another state or
5 territory or meet continued competency requirements as established by the
6 board.
- 7 3. ~~If an applicant for licensure by endorsement does not meet the educational~~
8 ~~requirements for the appropriate level of licensure as established by the board, a~~
9 ~~transitional license may be issued. A transitional license may be issued and~~
10 ~~renewed according to board rules. Renewal requires proof of progression towards~~
11 ~~meeting the academic requirements or thirty hours of continuing education.~~
- 12 4. An applicant for licensure as an advanced practice registered nurse shall:
13 a. Submit a completed application and appropriate fee as established by the
14 board;
15 b. Submit evidence of appropriate education and current certification in an
16 advanced nursing role by a national nursing organization meeting criteria as
17 established by the board; and
18 c. Possess or show evidence of application for a current unencumbered
19 registered nurse license.
- 20 ~~5.~~ 4. An applicant for licensure as an advanced practice registered nurse who
21 completed an advanced nursing education program and was licensed or certified
22 in advanced practice by another state before January 1, 2001, or who completed
23 an advanced nursing education program and was licensed or certified as a
24 women's health care nurse practitioner by another state before January 1, 2007,
25 may apply for and receive an advanced practice license if that person meets the
26 requirements that were in place in this state at the time the applicant qualified for
27 initial advanced practice licensure in that state.
- 28 ~~6.~~ 5. An applicant for unlicensed assistive person registration shall:
29 a. Submit a completed application and the appropriate fee as established by the
30 board; and

- 1 b. Provide verification of appropriate training, evidence of certification or
2 evaluation in the performance of basic nursing interventions.
- 3 7. ~~6.~~ An applicant for licensure as a specialty practice registered nurse shall:
- 4 a. Submit a completed application and appropriate fees as established by the
5 board;
- 6 b. Submit evidence of appropriate education and current certification in a
7 specialty nursing role by a national nursing organization meeting criteria as
8 established by the board; and
- 9 c. Possess or show evidence of application for a current unencumbered
10 registered nurse license.

11 **SECTION 5.** A new subsection to section 43-12.1-10 of the North Dakota Century
12 Code is created and enacted as follows:

13 An individual who holds a license as a transitional practical nurse or a transitional
14 registered nurse on August 1, 2003, may renew that license for the 2004 licensure
15 year. Effective with the 2005 licensure year, the board may not renew transitional
16 licenses.

17 **SECTION 6.** A new section to chapter 43-12.1 of the North Dakota Century Code is
18 created and enacted as follows:

19 Continuing education requirements. The board shall adopt rules requiring every
20 nurse licensed in the state to fulfill continuing education requirements. Before the board may
21 renew a license, the licensee shall submit evidence to the board establishing that all continuing
22 education requirements prescribed by the rules adopted by the board have been met. The
23 continuing education requirements must be the same for all nurses, regardless of the type of
24 nurse or the level of education.

25 **SECTION 7. APPLICATION.** The licensure requirements of section 6 of this Act are
26 effective beginning with the 2005 licensure year.

APPENDIX F
CONFERENCE COMMITTEE AMENDMENTS TO HB1245

30394.0208
Title.0400

Prepared by the Legislative Council staff for
Conference Committee
April 14, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1245

That the Senate recede from its amendments as printed on page 1106 of the House Journal and pages 912 and 913 of the Senate Journal and that Engrossed House Bill No. 1245 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 43-12.1-04 and four new sections to chapter 43-12.1 of the North Dakota Century Code, relating to nursing education, practice standards, licensure, and continuing education; to amend and reenact sections 43-12.1-01 and 43-12.1-02, subsection 2 of section 43-12.1-04, sections 43-12.1-06, 43-12.1-08, 43-12.1-09, 43-12.1-10, 43-12.1-11, and 43-12.1-15 of the North Dakota Century Code, relating to education and licensure of nurses; to provide a penalty; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-12.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-01. Statement of policy Scope. ~~The practice of nursing is directly related to the public welfare of the citizens of the state of North Dakota and is subject to regulation and control in the public interest to assure that qualified, competent practitioners and high quality standards are available. The legislative assembly recognizes that the practice of nursing is continually evolving and responding to changes within health care patterns and systems and recognizes the existence of. There are overlapping functions within the practice of nursing and other providers of health care.~~ The legislative assembly finds that

SECTION 2. AMENDMENT. Section 43-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-02. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Advanced practice registered nurse" means ~~a person~~ an individual who holds a current license to practice in this state as an advanced practice registered nurse ~~and either has a graduate degree with a nursing focus or has completed the educational requirements in effect when the person was initially licensed.~~
2. "Board" means the North Dakota board of nursing.
3. "Licensed practical nurse" means ~~a person~~ an individual who holds a current license to practice in this state as a licensed practical nurse ~~and either has an associate degree with a major in nursing or has completed the educational requirements in effect when the person was initially licensed.~~
4. "Nurse" means ~~any person~~ an individual who is currently licensed as an advanced practice registered nurse, registered nurse, or licensed practical nurse.

5. "Nursing" means the performance of acts utilizing specialized knowledge, skills, and abilities for people in a variety of settings. ~~Nursing~~ The term includes the following acts, which may not be deemed to include acts of medical diagnosis or treatment or the practice of medicine as defined in chapter 43-17:
 - a. The maintenance of health and prevention of illness.
 - b. Diagnosing human responses to actual or potential health problems.
 - c. Providing supportive and restorative care and nursing treatment, medication administration, health counseling and teaching, case finding and referral of ~~persons~~ individuals who are ill, injured, or experiencing changes in the normal health processes.
 - d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
 - e. Collaboration with other health care professionals in the implementation of the total health care regimen and execution of the health care regimen prescribed by a health care practitioner licensed under ~~the 43~~ the laws of this state.
6. "Prescriptive practices" means assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist.
7. "Registered nurse" means ~~a person~~ an individual who holds a current license to practice in this state as a registered nurse ~~and either has a baccalaureate degree with a major in nursing or has completed the educational requirements in effect when the person was initially licensed.~~
8. "Specialty practice registered nurse" means ~~a person~~ an individual who holds a current license to practice in this state as a specialty practice registered nurse ~~and has the educational preparation and national certification within a defined area of nursing practice.~~
9. "~~Transitional practical nurse license~~" means ~~a license issued by the board to a person who meets all of the requirements for licensure by endorsement as a licensed practical nurse, except the educational requirements.~~
10. "~~Transitional registered nurse license~~" means ~~a license issued by the board to a person who meets all of the requirements for licensure by endorsement as a registered nurse, except the educational requirements.~~
11. "Unlicensed assistive person" means an assistant to the nurse who regardless of title is authorized by the board to perform nursing interventions delegated and supervised by a licensed nurse.

SECTION 3. AMENDMENT. Subsection 2 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Students practicing nursing as a part of a ~~board approved~~ an in-state nursing education program.

SECTION 4. A new subsection to section 43-12.1-04 of the North Dakota Century Code is created and enacted as follows:

Upon written notification to the board by an out-of-state nursing program, a student practicing nursing as a part of a nursing education program preparing for initial or advanced licensure as a registered nurse or licensed practical nurse which is approved by a board of nursing and is located in an institution of higher education that offers transferable credit.

SECTION 5. AMENDMENT. Section 43-12.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-06. Qualifications of board members.

1. Each registered nurse must be an eligible voting resident of this state, possess an unencumbered registered nurse license under this chapter, and be currently engaged in practice as a registered nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
2. Each licensed practical nurse must be an eligible voting resident of this state, possess an unencumbered practical nurse license under this chapter, and be currently engaged in practice as a licensed practical nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
3. Each public member must be an eligible voting resident of this state and have no employment, professional license, or financial interest with any health care entity.
4. Each member appointed to the board shall maintain the qualifications for appointment for the duration of the appointment. The governor may remove any member of the board for cause upon recommendation of two-thirds of the members of the board.

SECTION 6. AMENDMENT. Section 43-12.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-08. ~~Powers and duties~~ Duties of the board.

1. The board shall regulate the practice of nursing ~~to assure that qualified competent practitioners and high quality standards are available.~~ Regulation of the ~~profession~~ practice of nursing must ensure that ~~no~~ a person may not practice or offer to practice nursing or use titles of advanced practice registered nurse, specialty practice registered nurse, registered nurse, licensed practical nurse, or unlicensed assistive person, or titles of a similar nature which denote the practice of nursing to the general public unless licensed or registered as provided in this chapter.
2. The board shall:
 - ~~1-~~ a. Enforce the provisions of this chapter. ~~The board has all of the duties, powers, and authority specifically granted by and necessary for the enforcement of this chapter.~~
 - 2- b. Adopt rules necessary to administer this chapter after collaborating and consulting with North Dakota nursing associations and other affected parties.
 - 3- c. Appoint and employ a qualified registered nurse to serve as executive director and approve any additional staff positions necessary to administer this chapter.

4. d. Establish fees and receive all moneys collected under this chapter and authorize all expenditures necessary to conduct the business of the board. Any balance of fees after payment of expenditures must be used to administer this chapter.
5. ~~Establish qualifications for nursing licensure and registration.~~
6. Establish standards for nursing education and practice and:
 - a. ~~Collaborate and consult with the appropriate nursing organizations and other affected parties in the establishment of the standards; and~~
 - b. ~~Consult with the medical profession in the establishment of prescriptive practice standards for advanced practice registered nurses. Prescriptive practices must be consistent with the scope of practice of the advanced practice registered nurse and include evidence of a collaborative agreement with a licensed physician.~~
7. Periodically review and approve nursing education programs.
8. ~~License and register applicants and renew and reinstate licenses and registrations.~~
9. ~~Establish standards for assessing the competence of licensees and registrants continuing in or returning to practice.~~
10. e. Collect and analyze data regarding nursing education, nursing practice, and nursing resources.
11. f. Issue and renew limited licenses to individuals requiring accommodation to practice nursing.
12. g. Establish confidential programs for the rehabilitation of nurses with workplace impairments.
13. ~~Discipline applicants, licensees, and registrants for violating this chapter.~~
14. h. Establish a nursing student loan program funded by license fees to encourage ~~persons~~ individuals to enter and advance in the nursing profession.
15. i. Establish a registry of ~~persons~~ individuals licensed or registered by the board.
16. ~~Collaborate and consult with the North Dakota nurses association, North Dakota licensed practical nurses association, and other nursing specialty groups prior to the adoption of rules.~~
17. j. Report annually to the governor and nursing profession regarding the regulation of nursing in the state.
18. k. Conduct and support projects pertaining to nursing education and practice.
19. l. Notify the board of pharmacy on an annual basis, or more frequent basis if necessary, of advanced practice registered nurses authorized to write prescriptions.
20. m. Adopt rules to allow nurses licensed by another state to receive short-term clinical education in North Dakota health care facilities.

SECTION 7. Two new sections to chapter 43-12.1 of the North Dakota Century Code are created and enacted as follows:

Nursing education programs.

1. The board shall adopt rules establishing standards for in-state nursing education programs leading to initial or advanced licensure. A nursing education program may not be provided in this state unless the board has approved the program. The board shall approve, review, and reapprove nursing education programs in this state. The board may not require a statement of intent as part of the approval process under this section.
2. The standards established under this section for a program leading to licensure as a licensed practical nurse:
 - a. Must allow for a program that offers two or more academic years of course study or the equivalent;
 - b. Must allow for a program that offers less than two academic years of course study or the equivalent; and
 - c. May not allow for a program that offers less than one academic year of course study or the equivalent.
3. The standards established under this section for a program leading to licensure as a registered nurse:
 - a. Must allow for a program that offers four or more academic years of course study or the equivalent;
 - b. Must allow for a program that offers less than four academic years of course study or the equivalent; and
 - c. May not allow for a program that offers less than two academic years of course study or the equivalent.

Nursing practice standards. The board shall adopt rules establishing standards for nursing practice. The board shall consult with the medical profession in the establishment of prescriptive practice standards for advanced practice registered nurses. Prescriptive practices must be consistent with the scope of practice of the advanced practice registered nurse and include evidence of a collaborative agreement with a licensed physician.

SECTION 8. AMENDMENT. Section 43-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-09. ~~Licensure—Registration~~ Initial licensure and registration.

1. The board shall license and register nursing applicants. The board shall adopt rules establishing qualifications for initial nursing licensure and registration.
2. Each applicant who successfully meets the requirements of this section is entitled to initial licensure or registration as follows:
4.
 - a. An applicant for licensure by examination to practice as a registered nurse or licensed practical nurse shall:
 - a- (1) Submit a completed application and appropriate fee as established by the board;

- e- (2) Submit an official transcript showing completion of an in-state nursing education program or a board-approved out-of-state nursing education program preparing for the level of licensure sought; and, The board shall adopt rules establishing standards for the approval of out-of-state nursing education programs. These standards for out-of-state programs must include consideration of whether the program is accredited by the national league for nursing accrediting commission, incorporated, or the commission on collegiate nursing education and whether the program meets the requirements of the state in which the program is provided.
 - e- (3) Pass an examination approved by the board.
- 2- b. An applicant for licensure by endorsement to practice as a registered nurse or licensed practical nurse shall:
- a- (1) Submit a completed application and appropriate fee as established by the board;
 - b- (2) Submit an official transcript showing completion of a nursing education program equal to or exceeding the requirements for nursing education programs in place in this state at the time the applicant qualified for initial licensure; preparing for the level of licensure sought.
 - e- (3) Submit proof of initial licensure by examination with the examination meeting the state North Dakota requirements for licensure examinations in effect at the time the applicant qualified for initial licensure; and,
 - d- (4) Submit evidence of current unencumbered licensure in another state or territory or meet continued competency requirements as established by the board.
- 3- ~~If an applicant for licensure by endorsement does not meet the educational requirements for the appropriate level of licensure as established by the board, a transitional license may be issued. A transitional license may be issued and renewed according to board rules. Renewal requires proof of progression towards meeting the academic requirements of thirty hours of continuing education.~~
- 4- c. An applicant for licensure as an advanced practice registered nurse shall:
- a- (1) Submit a completed application and appropriate fee as established by the board;
 - b- (2) Submit evidence of appropriate education and current certification in an advanced nursing role by a national nursing organization meeting criteria as established by the board; and, An advanced practice registered nurse applicant must have a graduate degree with a nursing focus or must have completed the educational requirements in effect when the applicant was initially licensed.
 - e- (3) Possess or show evidence of application for a current unencumbered registered nurse license.

- 6- d. An applicant for licensure as an advanced practice registered nurse who completed an advanced nursing education program and was licensed or certified in advanced practice by another state before January 1, 2001, or who completed an advanced nursing education program and was licensed or certified as a women's health care nurse practitioner by another state before January 1, 2007, may apply for and receive an advanced practice license if that ~~person~~ applicant meets the requirements that were in place in this state at the time the applicant qualified for initial advanced practice licensure in that state.
- 6- e. An applicant for unlicensed assistive person registration shall:
 - a- (1) Submit a completed application and the appropriate fee as established by the board; ~~and~~.
 - b- (2) Provide verification of appropriate training; ~~or~~ evidence of certification or evaluation in the performance of basic nursing interventions.
- 7- f. An applicant for licensure as a specialty practice registered nurse shall:
 - a- (1) Submit a completed application and appropriate ~~fees~~ fee as established by the board;.
 - b- (2) Submit evidence of appropriate education and current certification in a specialty nursing role by a national nursing organization meeting criteria as established by the board; ~~and~~. A specialty practice registered nurse applicant must have the educational preparation and national certification within a defined area of nursing practice.
 - c- (3) Possess or show evidence of application for a current unencumbered registered nurse license.

SECTION 9. AMENDMENT. Section 43-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-10. License—Registration—Renewal of license or registration - Reactivation.

1. ~~A~~ The board shall renew a current license to practice as an advanced practice registered nurse, specialty practice registered nurse, registered nurse, or licensed practical nurse ~~must be issued upon proof that if the applicant licensee submits a renewal application, submits the appropriate fee established by the board, and meets all requirements for licensure. If a person licensce does not renew a license before its expiration date the license expires. the board shall reactivate that license may be reinstated if that person licensee meets the reactivation requirements set by the board.~~
2. ~~An~~ The board shall renew the registration of an unlicensed assistive person ~~may renew registration upon submission of if the registrant submits a renewal application, the appropriate fee established by the board, and documentation of competency by the employer or evidence of certification or evaluation. A lapsed unlicensed assistive person registration may be renewed reactivated upon submission of the application. payment of the appropriate fee established by the board, and documentation of competency or evidence of certification or evaluation.~~

SECTION 10. A new section to chapter 43-12.1 of the North Dakota Century Code is created and enacted as follows:

(Effective through September 30, 2003) Transition from transitional nurse licenses. Before October 1, 2003, the board shall issue a licensed practical nurse license or a registered nurse license to each individual who holds a license as a transitional practical nurse or a transitional registered nurse on August 1, 2003. A newly issued license under this section replaces the transitional license.

SECTION 11. A new section to chapter 43-12.1 of the North Dakota Century Code is created and enacted as follows:

Continuing education requirements. The board shall adopt rules requiring every nurse licensed under this chapter to fulfill continuing education requirements. Before the board may renew or reactivate a license, the licensee shall submit evidence to the board establishing that the required continuing education requirements have been met.

SECTION 12. AMENDMENT. Section 43-12.1-11 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-11. Duties of licensees and registrants. Each ~~person~~ individual licensed or registered by the board shall provide information requested by the board at the time of renewal or reactivation. Each person individual licensed or registered by the board shall report to the board any knowledge of the performance by others of those acts or omissions that are violations of this chapter or grounds for disciplinary action as set forth in section 43-12.1-14. Each licensee or registrant shall report to the board any judgment or settlement in a professional or occupational malpractice action to which the licensee or registrant is a party. Any person, other than a licensee or registrant alleged to have violated this chapter, participating in good faith in making a report, assisting in an investigation, or furnishing information to an investigator, is immune from any civil or criminal liability that otherwise may result from reporting required by this section. For the purpose of any civil or criminal proceeding the good faith of any person required to report under this section is presumed.

SECTION 13. AMENDMENT. Section 43-12.1-15 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-15. Violation - Penalties. ~~A person may not~~ It is a class B misdemeanor for a person to willfully:

1. Buy or sell, fraudulently obtain, or furnish any questions and answers used in the licensing examination for nurses, or assist others in the performance of these acts.
2. Buy or sell, fraudulently obtain, or furnish any record ~~which~~ that might enable ~~a person~~ an individual to obtain a license in this state or assist others in the performance of these acts.
3. Practice as an advanced practice registered nurse, a specialty practice registered nurse, a registered nurse, or a licensed practical nurse, or an unlicensed assistive person through use of a transcript from a school of nursing, diploma, certificate of registration, license, or record ~~which~~ that was fraudulently created or obtained.
4. Practice as an advanced practice registered nurse, a specialty practice registered nurse, a registered nurse, or a licensed practical nurse, or an unlicensed assistive person as defined by this chapter unless licensed to do so.

5. Conduct any education program preparing a ~~person~~ an individual for nursing licensure or registration unless the program has been approved ~~or accepted~~ by the board.
6. Employ a person to practice nursing or perform nursing interventions unless the person is licensed or registered by the board.

~~Any violation of this chapter is a class B misdemeanor.~~

SECTION 14. APPLICATION. Section 5 of this Act applies to any vacancy filled after July 31, 2003. The license renewal and reactivation requirements of section 11 of this Act are effective beginning with the 2005 licensure year."

Renumber accordingly

APPENDIX G
ENROLLED HB 1245

Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003

HOUSE BILL NO. 1245
(Representatives Keiser, Devlin, Porter)
(Senators Klein, Krebsbach, O'Connell)

AN ACT to create and enact a new subsection to section 43-12.1-04 and four new sections to chapter 43-12.1 of the North Dakota Century Code, relating to nursing education, practice standards, licensure, and continuing education; to amend and reenact sections 43-12.1-01 and 43-12.1-02, subsection 2 of section 43-12.1-04, and sections 43-12.1-06, 43-12.1-08, 43-12.1-09, 43-12.1-10, 43-12.1-11, and 43-12.1-15 of the North Dakota Century Code, relating to education and licensure of nurses; to provide a penalty; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-12.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-01. ~~Statement of policy~~ Scope. ~~The legislative assembly finds that the practice of nursing is directly related to the public welfare of the citizens of the state of North Dakota and is subject to regulation and control in the public interest to assure that qualified, competent practitioners and high quality standards are available. The legislative assembly recognizes that the practice of nursing is continually evolving and responding to changes within health care patterns and systems and recognizes the existence of. There are overlapping functions within the practice of nursing and other providers of health care.~~

SECTION 2. AMENDMENT. Section 43-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-02. Definitions. In this chapter, unless the context ~~or subject matter~~ otherwise requires:

1. "Advanced practice registered nurse" means ~~a person~~ an individual who holds a current license to practice in this state as an advanced practice registered nurse ~~and either has a graduate degree with a nursing focus or has completed the educational requirements in effect when the person was initially licensed.~~
2. "Board" means the North Dakota board of nursing.
3. "Licensed practical nurse" means ~~a person~~ an individual who holds a current license to practice in this state as a licensed practical nurse ~~and either has an associate degree with a major in nursing or has completed the educational requirements in effect when the person was initially licensed.~~
4. "Nurse" means ~~any person~~ an individual who is currently licensed as an advanced practice registered nurse, registered nurse, or licensed practical nurse.
5. "Nursing" means the performance of acts utilizing specialized knowledge, skills, and abilities for people in a variety of settings. ~~Nursing~~ The term includes the following acts, which may not be deemed to include acts of medical diagnosis or treatment or the practice of medicine as defined in chapter 43-17:
 - a. The maintenance of health and prevention of illness.

- b. Diagnosing human responses to actual or potential health problems.
 - c. Providing supportive and restorative care and nursing treatment, medication administration, health counseling and teaching, case finding and referral of ~~persons~~ individuals who are ill, injured, or experiencing changes in the normal health processes.
 - d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
 - e. Collaboration with other health care professionals in the implementation of the total health care regimen and execution of the health care regimen prescribed by a health care practitioner licensed under ~~title 43~~ the laws of this state.
6. "Prescriptive practices" means assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist.
7. "Registered nurse" means ~~a person~~ an individual who holds a current license to practice in this state as a registered nurse ~~and either has a baccalaureate degree with a major in nursing or has completed the educational requirements in effect when the person was initially licensed~~.
8. "Specialty practice registered nurse" means ~~a person~~ an individual who holds a current license to practice in this state as a specialty practice registered nurse ~~and has the educational preparation and national certification within a defined area of nursing practice~~.
9. "~~Transitional practical nurse license~~" means ~~a license issued by the board to a person who meets all of the requirements for licensure by endorsement as a licensed practical nurse, except the educational requirements~~.
10. "~~Transitional registered nurse license~~" means ~~a license issued by the board to a person who meets all of the requirements for licensure by endorsement as a registered nurse, except the educational requirements~~.
44. "Unlicensed assistive person" means an assistant to the nurse who regardless of title is authorized by the board to perform nursing interventions delegated and supervised by a ~~licensed~~ nurse.

SECTION 3. AMENDMENT. Subsection 2 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Students practicing nursing as a part of a ~~board approved~~ in-state nursing education program.

SECTION 4. A new subsection to section 43-12.1-04 of the North Dakota Century Code is created and enacted as follows:

Upon written notification to the board by an out-of-state nursing program, a student practicing nursing as a part of a nursing education program preparing for initial or advanced licensure as a registered nurse or licensed practical nurse which is approved by a board of nursing and is located in an institution of higher education that offers transferable credit.

SECTION 5. AMENDMENT. Section 43-12.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- 43-12.1-06. Qualifications of board members.**

1. Each registered nurse must be an eligible voting resident of this state, possess an unencumbered registered nurse license under this chapter, and be currently engaged in practice as a registered nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
2. Each licensed practical nurse must be an eligible voting resident of this state, possess an unencumbered practical nurse license under this chapter, and be currently engaged in practice as a licensed practical nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
3. Each public member must be an eligible voting resident of this state and have no employment, professional license, or financial interest with any health care entity.
4. Each member appointed to the board shall maintain the qualifications for appointment for the duration of the appointment. The governor may remove any member of the board for cause upon recommendation of two-thirds of the members of the board.

SECTION 6. AMENDMENT. Section 43-12.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-08. ~~Powers and duties~~ Duties of the board.

1. ~~The board shall regulate the practice of nursing to assure that qualified competent practitioners and high quality standards are available. Regulation of the profession practice of nursing must ensure that no a person may not practice or offer to practice nursing or use titles of advanced practice registered nurse, specialty practice registered nurse, registered nurse, licensed practical nurse, or unlicensed assistive person, or titles of a similar nature which denote the practice of nursing to the general public unless licensed or registered as provided in this chapter.~~
2. The board shall:
 4. a. ~~Enforce the provisions of this chapter. The board has all of the duties, powers, and authority specifically granted by and necessary for the enforcement of this chapter.~~
 2. b. Adopt rules necessary to administer this chapter after collaborating and consulting with North Dakota nursing associations and other affected parties.
 3. c. Appoint and employ a ~~qualified~~ registered nurse to serve as executive director and approve any additional staff positions necessary to administer this chapter.
 4. d. Establish fees and receive all moneys collected under this chapter and authorize all expenditures necessary to conduct the business of the board. Any balance of fees after payment of expenditures must be used to administer this chapter.
5. ~~Establish qualifications for nursing licensure and registration.~~
6. ~~Establish standards for nursing education and practice and:~~
 - a. ~~Collaborate and consult with the appropriate nursing organizations and other affected parties in the establishment of the standards; and~~
 - b. ~~Consult with the medical profession in the establishment of prescriptive practice standards for advanced practice registered nurses. Prescriptive practices must be consistent with the scope of practice of the advanced practice registered nurse and include evidence of a collaborative agreement with a licensed physician.~~
7. ~~Periodically review and approve nursing education programs.~~

- ~~8. License and register applicants and renew and reinstate licenses and registrations.~~
- ~~9. Establish standards for assessing the competence of licensees and registrants continuing in or returning to practice.~~
- ~~40. e. Collect and analyze data regarding nursing education, nursing practice, and nursing resources.~~
- ~~41. f. Issue and renew Limited licenses to individuals requiring accommodation to practice nursing.~~
- ~~42. g. Establish confidential programs for the rehabilitation of nurses with workplace impairments.~~
- ~~43. Discipline applicants, licensees, and registrants for violating this chapter.~~
- ~~44. h. Establish a nursing student loan program funded by license fees to encourage persons individuals to enter and advance in the nursing profession.~~
- ~~45. i. Establish a registry of persons individuals licensed or registered by the board.~~
- ~~46. Collaborate and consult with the North Dakota nurses association, North Dakota licensed practical nurses association, and other nursing specialty groups prior to the adoption of rules.~~
- ~~47. j. Report annually to the governor and nursing profession regarding the regulation of nursing in the state.~~
- ~~48. k. Conduct and support projects pertaining to nursing education and practice.~~
- ~~49. l. Notify the board of pharmacy on an annual basis, or more frequent basis if necessary, of advanced practice registered nurses authorized to write prescriptions.~~
- ~~20. m. Adopt rules to allow nurses licensed by another state to receive short-term clinical education in North Dakota health care facilities.~~

SECTION 7. Two new sections to chapter 43-12.1 of the North Dakota Century Code are created and enacted as follows:

Nursing education programs.

- ~~1. The board shall adopt rules establishing standards for in-state nursing education programs leading to initial or advanced licensure. A nursing education program may not be provided in this state unless the board has approved the program. The board shall approve, review, and reapprove nursing education programs in this state. The board may not require a statement of intent as part of the approval process under this section.~~
- ~~2. The standards established under this section for a program leading to licensure as a licensed practical nurse:
 - ~~a. Must allow for a program that offers two or more academic years of course study or the equivalent;~~
 - ~~b. Must allow for a program that offers less than two academic years of course study or the equivalent; and~~
 - ~~c. May not allow for a program that offers less than one academic year of course study or the equivalent.~~~~

3. The standards established under this section for a program leading to licensure as a registered nurse:
 - a. Must allow for a program that offers four or more academic years of course study or the equivalent;
 - b. Must allow for a program that offers less than four academic years of course study or the equivalent; and
 - c. May not allow for a program that offers less than two academic years of course study or the equivalent.

Nursing practice standards. The board shall adopt rules establishing standards for nursing practice. The board shall consult with the medical profession in the establishment of prescriptive practice standards for advanced practice registered nurses. Prescriptive practices must be consistent with the scope of practice of the advanced practice registered nurse and include evidence of a collaborative agreement with a licensed physician.

SECTION 8. AMENDMENT. Section 43-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-09. Licensure—Registration Initial licensure and registration.

1. The board shall license and register nursing applicants. The board shall adopt rules establishing qualifications for initial nursing licensure and registration.
2. Each applicant who successfully meets the requirements of this section is entitled to initial licensure or registration as follows:
 - a. An applicant for licensure by examination to practice as a registered nurse or licensed practical nurse shall:
 - a. (1) Submit a completed application and appropriate fee as established by the board;
 - b. (2) Submit an official transcript showing completion of an in-state nursing education program or a board-approved out-of-state nursing education program preparing for the level of licensure sought; and. The board shall adopt rules establishing standards for the approval of out-of-state nursing education programs. These standards for out-of-state programs must include consideration of whether the program is accredited by the national league for nursing accrediting commission, incorporated, or the commission on collegiate nursing education and whether the program meets the requirements of the state in which the program is provided.
 - e. (3) Pass an examination approved by the board.
 2. b. An applicant for licensure by endorsement to practice as a registered nurse or licensed practical nurse shall:
 - a. (1) Submit a completed application and appropriate fee as established by the board;
 - e. (2) Submit an official transcript showing completion of a nursing education program equal to or exceeding the requirements for nursing education programs in place in this state at the time the applicant qualified for initial licensure; preparing for the level of licensure sought.

- e. (3) Submit proof of initial licensure by examination with the examination meeting ~~the state North Dakota~~ requirements for licensure examinations in effect at the time the applicant qualified for initial licensure; ~~and~~.
 - e. (4) Submit evidence of current unencumbered licensure in another state ~~or territory~~ or meet continued competency requirements as established by the board.
3. ~~If an applicant for licensure by endorsement does not meet the educational requirements for the appropriate level of licensure as established by the board, a transitional license may be issued. A transitional license may be issued and renewed according to board rules. Renewal requires proof of progression towards meeting the academic requirements or thirty hours of continuing education.~~
4. c. An applicant for licensure as an advanced practice registered nurse shall:
- a. (1) Submit a completed application and appropriate fee as established by the board; ~~and~~.
 - b. (2) Submit evidence of appropriate education and current certification in an advanced nursing role by a national nursing organization meeting criteria as established by the board; ~~and~~. An advanced practice registered nurse applicant must have a graduate degree with a nursing focus or must have completed the educational requirements in effect when the applicant was initially licensed.
 - e. (3) Possess or show evidence of application for a current unencumbered registered nurse license.
5. d. An applicant for licensure as an advanced practice registered nurse who completed an advanced nursing education program and was licensed or certified in advanced practice by another state before January 1, 2001, or who completed an advanced nursing education program and was licensed or certified as a women's health care nurse practitioner by another state before January 1, 2007, may apply for and receive an advanced practice license if that person ~~applicant~~ meets the requirements that were in place in this state at the time the applicant qualified for initial advanced practice licensure in that state.
6. e. An applicant for unlicensed assistive person registration shall:
- a. (1) Submit a completed application and the appropriate fee as established by the board; ~~and~~.
 - b. (2) Provide verification of appropriate training; ~~or~~ evidence of certification or evaluation in the performance of basic nursing interventions.
7. f. An applicant for licensure as a specialty practice registered nurse shall:
- a. (1) Submit a completed application and appropriate ~~fees~~ fee as established by the board; ~~and~~.
 - b. (2) Submit evidence of appropriate education and current certification in a specialty nursing role by a national nursing organization meeting criteria as established by the board; ~~and~~. A specialty practice registered nurse applicant must have the educational preparation and national certification within a defined area of nursing practice.
 - e. (3) Possess or show evidence of application for a current unencumbered registered nurse license.

SECTION 9. AMENDMENT. Section 43-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-10. License—Registration—Renewal of license or registration - Reactivation.

1. ~~A The board shall renew a current license to practice as an advanced practice registered nurse, specialty practice registered nurse, registered nurse, or licensed practical nurse must be issued upon proof that if the applicant licensee submits a renewal application, submits the appropriate fee established by the board, and meets all requirements for licensure. If a person licensee does not renew a license before its expiration date the license expires, the board shall reactivate that license may be reinstated if that person licensee meets the reactivation requirements set by the board.~~
2. ~~An The board shall renew the registration of an unlicensed assistive person may renew registration upon submission of if the registrant submits a renewal application, the appropriate fee established by the board, and documentation of competency by the employer or evidence of certification or evaluation. A lapsed unlicensed assistive person registration may be renewed reactivated upon submission of the application, payment of the appropriate fee established by the board, and documentation of competency or evidence of certification or evaluation.~~

SECTION 10. A new section to chapter 43-12.1 of the North Dakota Century Code is created and enacted as follows:

(Effective through September 30, 2003) Transition from transitional nurse licenses. Before October 1, 2003, the board shall issue a licensed practical nurse license or a registered nurse license to each individual who holds a license as a transitional practical nurse or a transitional registered nurse on August 1, 2003. A newly issued license under this section replaces the transitional license.

SECTION 11. A new section to chapter 43-12.1 of the North Dakota Century Code is created and enacted as follows:

Continuing education requirements. The board shall adopt rules requiring every nurse licensed under this chapter to fulfill continuing education requirements. Before the board may renew or reactivate a license, the licensee shall submit evidence to the board establishing that the required continuing education requirements have been met.

SECTION 12. AMENDMENT. Section 43-12.1-11 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-11. Duties of licensees and registrants. Each ~~person~~ individual licensed or registered by the board shall provide information requested by the board at the time of renewal or reactivation. Each ~~person~~ individual licensed or registered by the board shall report to the board any knowledge of the performance by others of those acts or omissions that are violations of this chapter or grounds for disciplinary action as set forth in section 43-12.1-14. Each licensee or registrant shall report to the board any judgment or settlement in a professional or occupational malpractice action to which the licensee or registrant is a party. Any person, other than a licensee or registrant alleged to have violated this chapter, participating in good faith in making a report, assisting in an investigation, or furnishing information to an investigator, is immune from any civil or criminal liability that otherwise may result from reporting required by this section. For the purpose of any civil or criminal proceeding the good faith of any person required to report under this section is presumed.

SECTION 13. AMENDMENT. Section 43-12.1-15 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-15. Violation - Penalties. ~~A person may not~~ It is a class B misdemeanor for a person to willfully:

1. Buy or sell, fraudulently obtain, or furnish any questions and answers used in the licensing examination for nurses, or assist others in the performance of these acts.
2. Buy or sell, fraudulently obtain, or furnish any record ~~which that~~ might enable ~~a person an individual~~ to obtain a license in this state or assist others in the performance of these acts.
3. Practice as an advanced practice registered nurse, a specialty practice registered nurse, a registered nurse, ~~or a licensed practical nurse, or an unlicensed assistive person~~ through use of a transcript from a school of nursing, diploma, certificate of registration, license, or record ~~which that~~ was fraudulently created or obtained.
4. Practice as an advanced practice registered nurse, a specialty practice registered nurse, a registered nurse, ~~or a licensed practical nurse, or an unlicensed assistive person~~ as defined by this chapter unless licensed to do so.
5. Conduct any education program preparing ~~a person an individual~~ for nursing licensure or registration unless the program has been approved ~~or accepted~~ by the board.
6. Employ a person to practice nursing or perform nursing interventions unless the person is licensed or registered by the board.

~~Any violation of this chapter is a class B misdemeanor.~~

SECTION 14. APPLICATION. Section 5 of this Act applies to any vacancy filled after July 31, 2003. The license renewal and reactivation requirements of section 11 of this Act are effective beginning with the 2005 licensure year.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1245.

House Vote: Yeas 60 Nays 32 Absent 2

Senate Vote: Yeas 26 Nays 21 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State

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