MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1299

2007 HOUSE HUMAN SERVICES

HB 1299

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1299

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 15, 2007

Recorder Job Number: 1061

Committee Clerk Signature Judy Schoche

Minutes:

Chairman Price: Open HB 1299.

Arnold Thomas, President of ND Healthcare Association: See attached testimony.

John Kapsner, Legal council for the ND Healthcare Association: See attached testimony, and going through the amendments. **Mr. Kapsner** cleared up some of the committee's questions about the changes.

Howard Anderson, Executive Director of ND State Board of pharmacy: Sometimes I am in favor of things and sometimes I am not. This time I am not. There is always a risk in changing a law. This would allow all hospitals to have pharmacies in all their clinics. They are also starting to buy more nursing homes around the state this would allow them to also put a pharmacy in them. When you look at the law you will have to look at all the implications. Supreme Court accepted the ownership law, and it served us well. We are reluctant to change it.

John Olson Representing ND Pharmacies Corporation and Attorney in Bismarck: Anytime you create more exceptions, you weaken statutes. We believe the system is working well in ND. See map attached. I will also leave testimony with you from others who could not be here.

David Olig, Fargo pharmacist, and a registered lobbyist. See attached testimony. It is not feasible to have a pharmacy open for 24 hours a day. Management and ownership are two different things. Under the current law when a drug store closes and there is no one to purchase it, the Board of Pharmacy will have to find a way to service.

Bob Treitline, ND Pharmacy Inc: See attached testimony. There are no provisions in the law. When someone is a small business owner, they would be at great risk of loosing their business. They are the heart and soul of our communities.

Joel Aukes President, NDSHP and registered lobbyist: I just wanted to stand up and inform the committee, our society represents 3990 pharmacists around the state. Because of the bill you heard the other week, all of the members of our society they are also members of ND pharmacy association. Our society has elected to be neutral on this bill.

Mike Rud, Executive Director of ND Retail Association: NDRA represents many across the state including a growing number of pharmacists. I am urging you to recommend a do no pass on HB 1299.

Tom Woodmansee, President of the ND Grocery Association: We are kind of in between on this issue. We followed this guideline for the last 10-15 years, in most of our stores. Our concern is that we be careful about what we do.

Other testimony was handed out from Gary Boehler, Jerry Gratz, Dennis Johnson, Ken Fix, Dennis Johnson, who were not able to be here.

Chairman Price: Any more opposition. If not we will close the hearing on HB 1299.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1299

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2848

Committee Clerk Signature	Judy Schock

Minutes:

Chairman Price: Take out HB 1299.

Representative Porter presents proposed amendments. In discussion with the parties between the hospitals and the pharmacy association there was general agreement on them.

Mr. Arnold Anderson, Executive Director of Board of Pharmacy: We had presented a similar amendment a couple years ago, which was rejected by the people at that time who was sponsoring the bill. We think this will solve some problems for us, and in those smaller communities.

Chairman Price: Now there is no priority given to a telepharmacy first or anything like that?

Mr. Anderson: If someone wanted to put a telepharmacy in the community, and really wanted to purchase the pharmacy that was there, I would say that would be a situation where the board would have to look at that. If someone already purchased the other pharmacy and was going to put a telepharmacy in there, it probably would end up being a telepharmacy. If on the other hand the hospital stepped forward and said we would like to run this with a full service pharmacy with a pharmacists.

Representative Kaldor: With the word must, I have to put this in context of the rest of the language in that section of law. Before this happens I am assuming you would want that

pharmacist wanting to sell their pharmacy to have first exhausted all other options. I have a question about the definition of community. Do we have any pharmacies in communities where there is no hospital, and do you see this as an opportunity for a near by hospital to extend pharmacy services in that community?

Mr. Anderson: Yes, there are pharmacies where there are no hospitals. Right now I would say the bill is pretty specific to the hospital in that community, however you can always look at the language and say, what is the community. There is no hard and fast definition of community. I guess I would want the board to look at it.

Representative Conrad: Glen Ullen has a nursing home and a pharmacy and no hospital along with a few other communities. Would you give that option to nursing homes?

Mr. Anderson: Right now this does not give the nursing homes that option to buy that pharmacy.

Representative Hofstad moves the amendment, seconded by **Representative Damschen**. The verbal vote was all yeas. **Representative Porter** has a second amendment in section 2 which includes a study, I move a do pass on the amendment, seconded by **Representative Uglem.** The vote was 7 yeas, 5 nays and 0 absent. **Representative Porter** moves as do pass as amended, seconded by **Representative Damschen.**. The vote was 9 yeas, 3 nays and 0 absent. **Representative Hatlestad** will carry the bill to the floor.

Proposed Amendments to HB 1299

Page 1, line 6, after the second bolded period, replace the remainder of the bill with "If a retail pharmacy is a sole community provider of pharmacy services, the board must grant a retail pharmacy permit to a hospital in that community which may purchase that pharmacy and may operate the pharmacy, at any location, in that community."

Renumber Accordingly

1st HB1295

A BILL for an Act to require the Legislative Council to study the regulation and licensing of pharmacists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY – REGULATION AND LICENSING OF PHARMACISTS.

1. The Legislative Council shall study, during the 2007-08 interim, the regulation and licensing of pharmacists in this state. The study must include an examination of:

a. The state board of pharmacy, its size, the manner of appointment, and whether or not the board is representative of both commercial and noncommercial pharmacists;

b. The state's demographics and the impact that changing demographics in the rural areas will have on the ability of small locally owned pharmacies to remain economically viable and on the ability of rural residents to access low cost pharmaceuticals and pharmacy and pharmacists' services;

c. The pharmacy ownership restrictions that were implemented nearly fifty years ago and their relevance in terms of marketplace competition and their impact on the price and availability of pharmaceuticals and pharmacy and pharmacists' services; and

d. The statutory interplay between the state board of pharmacy and the North Dakota pharmaceutical association, and particularly whether the regulatory function of one conflicts with the advocacy function of the other.

2. The Legislative Council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-first Legislative Assembly.

Date: 2/5
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1299 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Move Amendment

Motion Made By Rep Hofstad Seconded By Rep Damschen

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman			Kari L Conrad		
Vonnie Pietsch – Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) "Click here to type Yes Vote" 12 No "Click here to type No Vote" 0

Absent 0

Floor Assignment

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

Prepared by the Legislative Council staff for
Representative Price
February 8, 2007

House Amendments to HB 1299 (78265.0101) - Human Services Committee 02/09/2007

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 43-15-35 of the North Dakota Century Code, relating to postgraduate medical residency training program pharmacies; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-15-35 of the North Dakota Century Code is amended and reenacted as follows:

43-15-35. Requirements for permit to operate pharmacy - Exceptions.

1. The board shall issue a permit to operate a pharmacy, or a renewal permit, upon satisfactory proof of all of the following:

~~1.~~ a. The pharmacy will be conducted in full compliance with existing laws and with the rules and regulations established by the board.

~~2.~~ b. The equipment and facilities of the pharmacy are such that prescriptions can be filled accurately and properly, and United States pharmacopeia and national formulary preparations properly compounded and so that it may be operated and maintained in a manner that will not endanger public health and safety.

~~3.~~ c. The pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary, and orderly manner.

~~4.~~ d. The management of the pharmacy is under the personal charge of a pharmacist duly licensed under the laws of this state.

~~5.~~ e. The applicant for such permit is qualified to conduct the pharmacy, and is a licensed pharmacist in good standing or is a partnership, each active member of which is a licensed pharmacist in good standing~~, or~~; a corporation or an association, the majority stock in which is owned by licensed pharmacists in good standing~~,~~; or a limited liability company, the majority membership interests in which is owned by licensed pharmacists in good standing, actively and regularly employed in and responsible for the management, supervision, and operation of such pharmacy.

~~6.~~ f. Suitable reference sources either in book or electronic data form, are available in the pharmacy or on-line, which might include the United States pharmacopeia and national formulary, the United States pharmacopeia dispensing information, facts and comparisons, micro medex, the ~~ASHP~~ American society of health-system pharmacists formulary, or other suitable references pertinent to the practice carried on in the licensed pharmacy.

2. The provisions of ~~subsection 5 shall~~ subdivision e of subsection 1 do not apply to ~~the~~:

a. The holder of a permit on July 1, 1963, if otherwise qualified to conduct the pharmacy, provided that any such permitholder ~~who~~ that discontinues operations under such permit or fails to renew such

permit upon expiration ~~shall~~ is not ~~thereafter be~~ exempt from the provisions of ~~subsection 5~~ subdivision e of subsection 1 as to the discontinued or lapsed permit. ~~The provisions of subsection 5 shall not apply to~~

b. A hospital ~~pharmacies~~ pharmacy furnishing service only to patients in that hospital.

c. The applicant for a permit to operate a pharmacy which is a hospital, if the pharmacy for which the hospital seeks a permit to operate is a retail pharmacy that is the sole provider of pharmacy services in the community and is a retail pharmacy that was in existence before the hospital took over operations. A hospital operating a pharmacy under this subdivision may operate the pharmacy at any location in the community.

SECTION 2. LEGISLATIVE COUNCIL STUDY - REGULATION AND LICENSING OF PHARMACISTS.

1. The legislative council shall consider studying, during the 2007-08 interim, the regulation and licensing of pharmacists in this state. The study must include an examination of:

   a. The state board of pharmacy, the board's size, the manner of board membership appointment, and whether the board is representative of commercial and noncommercial pharmacists;

   b. The state's demographics and the impact changing demographics in rural areas will have on the ability of small, locally owned pharmacies to remain economically viable and on the ability of rural residents to access low-cost pharmaceuticals and pharmacy and pharmacists' services;

   c. The pharmacy ownership restrictions, the relevance of those restrictions in terms of marketplace competition, and the impact of those restrictions on the price and availability of pharmaceuticals and on pharmacy and pharmacists' services; and

   d. The statutory interplay between the state board of pharmacy and the North Dakota pharmaceutical association and whether the regulatory function of the board conflicts with the advocacy function of the association.

2. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

Date: 2/5
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES Committee HB 1299

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken None Amendment

Motion Made By Rep Porter Seconded By Rep Uglem

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman	✓		Kari L Conrad		✓
Vonnie Pietsch – Vice Chairman	✓		Lee Kaldor		✓
Chuck Damschen	✓		Louise Potter		✓
Patrick R. Hatlestad		✓	Jasper Schneider		✓
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) 7 No 5

Absent 0

Floor Assignment

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

Date: 2/5
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1299 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Rep Porter Seconded By Rep Damschen

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman	✓		Kari L Conrad		✓
Vonnie Pietsch – Vice Chairman	✓		Lee Kaldor		✓
Chuck Damschen	✓		Louise Potter		✓
Patrick R. Hatlestad	✓		Jasper Schneider		✓
Curt Hofstad	✓			✓	
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) 9 No 3

Absent 0

Floor Assignment Rep. Hatlestad.

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

REPORT OF STANDING COMMITTEE

HB 1299: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1299 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 43-15-35 of the North Dakota Century Code, relating to postgraduate medical residency training program pharmacies; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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~~2.~~ b. The equipment and facilities of the pharmacy are such that prescriptions can be filled accurately and properly, and United States pharmacopeia and national formulary preparations properly compounded and so that it may be operated and maintained in a manner that will not endanger public health and safety.

~~3.~~ c. The pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary, and orderly manner.

~~4.~~ d. The management of the pharmacy is under the personal charge of a pharmacist duly licensed under the laws of this state.

~~5.~~ e. The applicant for such permit is qualified to conduct the pharmacy, and is a licensed pharmacist in good standing or is a partnership, each active member of which is a licensed pharmacist in good standing~~, or~~; a corporation or an association, the majority stock in which is owned by licensed pharmacists in good standing~~,~~; or a limited liability company, the majority membership interests in which is owned by licensed pharmacists in good standing, actively and regularly employed in and responsible for the management, supervision, and operation of such pharmacy.

~~6.~~ f. Suitable reference sources either in book or electronic data form, are available in the pharmacy or on-line, which might include the United States pharmacopeia and national formulary, the United States pharmacopeia dispensing information, facts and comparisons, micro medex, the ~~ASHP~~ American society of health-system pharmacists formulary, or other suitable references pertinent to the practice carried on in the licensed pharmacy.

2. The provisions of ~~subsection 5 shall~~ subdivision e of subsection 1 do not apply to ~~the~~:

a. The holder of a permit on July 1, 1963, if otherwise qualified to conduct the pharmacy, provided that any such permitholder ~~who~~ that discontinues operations under such permit or fails to renew such permit upon expiration ~~shall~~ is not ~~thereafter be~~ exempt from the provisions of ~~subsection 5~~ subdivision e of subsection 1 as to the discontinued or lapsed permit. ~~The provisions of subsection 5 shall not apply to~~

b. A hospital ~~pharmacies~~ pharmacy furnishing service only to patients in that hospital.

c. The applicant for a permit to operate a pharmacy which is a hospital, if the pharmacy for which the hospital seeks a permit to operate is a retail pharmacy that is the sole provider of pharmacy services in the community and is a retail pharmacy that was in existence before the hospital took over operations. A hospital operating a pharmacy under this subdivision may operate the pharmacy at any location in the community.

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   b. The state's demographics and the impact changing demographics in rural areas will have on the ability of small, locally owned pharmacies to remain economically viable and on the ability of rural residents to access low-cost pharmaceuticals and pharmacy and pharmacists' services;

   c. The pharmacy ownership restrictions, the relevance of those restrictions in terms of marketplace competition, and the impact of those restrictions on the price and availability of pharmaceuticals and on pharmacy and pharmacists' services; and

   d. The statutory interplay between the state board of pharmacy and the North Dakota pharmaceutical association and whether the regulatory function of the board conflicts with the advocacy function of the association.

2. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

2007 SENATE HUMAN SERVICES

HB 1299

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **Engrossed HB 1299**

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 14, 2007

Recorder Job Number: 5052, 5085

Committee Clerk Signature Mary K Monson

Minutes:

Job #5052

Vice Chair Erbele opened the hearing on Engrossed HB 1299, a bill relating to the issuance of permits for the operation of a pharmacy.

Representative Porter (District 34) introduced Engrossed HB 1299. Referenced Page 2, Line21 as the jest of the bill. Subsection C would allow a hospital to purchase a pharmacy in a willing-seller, willing-buyer situation. Gave examples [01:20]. The House added a part to the bill which calls for a legislative council interim study related to the regulation of licensing of pharmacists.

Vice Chair Erbele asked if a hospital-owned pharmacy would still be required to employ licensed pharmacists?

Representative Porter answered that hospital pharmacies have to employ licensed pharmacists and hospital-owned pharmacies would have the same requirements. The only exception would be that the hospital could put a pharmacy tech into the pharmacy or they could absorb it into their facility and run it like an after-hours situation. The pharmacy tech would have to meet the training requirements of the board.

Arnold Thomas, President of the North Dakota Healthcare Association, spoke and provided written testimony in support of Engrossed HB 1299 (Attachment #1). Language for the amendment with respect to the study was also provided (Attachment #2).

Senator Erbele asked if the language is put back to the original intent of the bill or is there more to the bill?

Mr. Thomas answered that the language deals only with the study, making it a mandatory legislative council study in the interim. It does not change any of the other provisions.

Susan Doherty, Executive Administrator of Health Policy Consortium (HPC), spoke and provided written testimony in support of Engrossed HB 1299 (Attachment #3). Additional amendments were offered to the study portion of the engrossed bill to repeal the ownership provision, to strengthen the language within that section. Currently there are three routes to bypass the ownership component: judicial, legislative, and administrative.

Joan Johnson, ND pharmacist, spoke and provided written testimony in support of Engrossed HB 1299 (Attachment #4).

Madame Chair Lee asked if hospital pharmacists under current law would be able to provide services for disease management of chronic conditions? Does current law limit the ability of non-retail pharmacists to participate in services like these?

Joan Johnson answered that many of those programs do hinge on retail licenses. It is not a level playing field for everyone to be able to access that. Clinical pharmacists in the hospital are qualified to provide this because they work with the primary care physicians and see the patients in the hospital. You have to be able to access the patient, not just the chart.

Susan Doherty stated that under the design of HPC, pharmacists are key players in designing interventions for the patient.

Madame Chair Lee asked if hospital pharmacists could provide that outreach?

Susan Schnabe, MeritCare Health System, answered that depending on the type of project, hospital pharmacists or non-independently owned pharmacies would be able to offer medication management strategy. They could make recommendations and make sure that patients have appropriate medication therapy and management of their disease phase. However, HB 1299 would limit pharmacists' ability to dispense medication in some settings because of the restrictive nature of the current ownership law. All pharmacists have the obligation to educate the patient, but cannot dispense medication to them without a current retail license—few exceptions (meter 33:08).

Howard Anderson, Executive Director of the ND State Board of Pharmacy, spoke and provided written testimony in support of Engrossed HB 1299 (Attachment #5) and are not in favor of the suggested amendments to change it back to the original form. The Board does not grant variances to the law—that is the job of the legislators; however, in many cases, the Board does grant variances to the rule. Modified written testimony on the original version of HB 1299 was also provided (Attachment #6). Written answers to questions posed by the House Human Services committee were also provided (Attachment #7). Regarding Madame Chair Lee's earlier question about medication therapy management, any pharmacist can participate in that. Referenced the Asheville Project (meter 40:00).

Senator Dever asked how this bill differs from the bill last session?

Howard Anderson answered that the original form of HB 1299 was very similar to the bill from last session. Similar amendments were offered last time, but the supporters of the bill did not accept them. This time, they agreed on the amendment. The Board of Pharmacy is not opposed to the study, but would oppose the suggestion to focus it on overturning the law. The study should provide information and the decision about the law should be made after the

study is done. The Board of Pharmacy has contracted with the Consensus Council to do some focus group studies.

Madame Chair Lee asked if health-affiliated pharmacists were included in that study?

Howard Anderson replied that the questions in the study refer to pharmacists in general and are not specified to retail or hospital-owned pharmacists. Regarding the service and access, the hospitals that have out-patient pharmacies now are not open longer than other retail pharmacies. Examples and further explanation followed (meter 44:47).

Senator Dever stated concern for small-town North Dakota, regarding the study of removing the ownership law, if big box stores started pharmacies. Is the Board concerned about that?

Howard Anderson replied that their perspective on the ownership law is that the pharmacists should be in charge of the decisions for the patient; that is the basis for the ownership law. Access is also important. Further explanation followed (meter 46:23).

Madame Chair Lee brought up pricing issues within urban and rural areas and between states (meter 47:29).

Howard Anderson answered that the study may look at some of those pricing issues. According to a study by a national group, the prices in North Dakota are not much different than the prices in other states.

Madame Chair Lee asked if there is only one chain in ND that was grandfathered in?

Howard Anderson explained that the grandfathering is permit-specific. Explanation and examples followed (meter 52:00).

John Olson, North Dakota Pharmacy Services Corporation, spoke in support of Engrossed HB 1299. The original version of HB 1299 was opposed and returning the bill to its original form would also be opposed. There are no disputes with the mandatory study. The pharmacy ownership law has been inherently laden with the intent to promote certain professions for the

benefit of North Dakota citizens. US Supreme Court decision challenging the pharmacy law was referenced (meter 56:53). The language in the bill right now makes sense, but if it were to be taken any further than this, it should be studied. The big box store is an issue for pharmacies as well as for other professions; that should be studied.

Kailee Fretland, pharmacy resident in Bismarck, spoke in support of Engrossed HB 1299. Spoke of services in rural areas and opportunities for new pharmacists (meter 58:56).

No opposing testimony.

No neutral testimony.

Madame Chair Lee closed the hearing on Engrossed HB 1299.

Job #5085

The discussion on Engrossed HB 1299 was opened.

Senator Dever asked if this bill would allow a hospital in town to buy a pharmacy that is downtown?

Senator Warner replied yes.

Madame Chair Lee gave explanation about the similar bill heard last session (meter 00:16). The bill last session would have permitted a hospital pharmacy to provide retail pharmacy services to the general public and not be limited to a maximum 3-day medication. It did not mean that the hospital was going to buy the drug store.

Senator Erbele referred to cases in his district that are dealing with these issues (meter 01:06).

Madame Chair Lee asked about the language Susan Doherty was going to provide for an amendment. Pharmacists today are better educated than they were before. As long as they are properly trained, they should be able to teach people how to use insulin pumps or other medication-dispensing items. There has been a graying of the boundaries.

Discussion regarding the amendment language from Susan Doherty followed (meter 04:20).

Senator Warner referenced Howard Anderson's comment that the amendment language prejudged the outcome of the study.

Madame Chair Lee brought up the amendment consideration from the Healthcare Association that would make the study mandatory. It can be promoted if it is not made mandatory. Making the study mandatory may jeopardize the passing of the bill and that is a concern.

Senator Heckaman asked if Senator Judy Lee would have any influence on picking the studies.

Madame Chair Lee said that legislators have the opportunity to tell legislative council members what they think is really important.

Senator Warner made a motion to recommend Do Pass on Engrossed HB 1299.

Senator Erbele seconded the motion.

Roll call vote was taken.

Motion passed 6-0-0.

Carrier is Senator Erbele.

Date: 3-14-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1299

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen. Warner Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair 2	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner 1	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Erbele

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

REPORT OF STANDING COMMITTEE

HB 1299, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1299 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1299

NDHA
North Dakota Healthcare Association

Vision
The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission
The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

Testimony for
HB 1299 Pharmacy Ownership
January 15, 2007

Madame Chairman, members of the committee:

I am Arnold Thomas, President of the North Dakota Healthcare Association. I am here in support of HB 1299.

When the pharmacy ownership law was enacted in the early 1960's, it required that every pharmacy from that day forth must have at least 51% ownership by a licensed pharmacist. The law grandfathered in existing pharmacies that did not meet that requirement. So, a commercial pharmacy owned by a hospital - prior to 1963 - was still allowed to operate.

In the nearly half-century since the ownership provisions were put in place, times have changed and situations have changed.

House Bill 1299 has a narrow focus. It is designed for maximizing patient access to the services of pharmacists. It does this by permitting hospitals to operate commercial pharmacies under certain conditions.

Depending on where your Aunt Mary lives, she can visit her doctor, get a prescription, and take it right down to Main Street to get it filled. Your Aunt Sue, in the next town, might have different options. She might be able to get her prescription several days later by mail order – or she might have it filled by a pharmacy technician who is supervised electronically from afar. In some cases, she might even be offered the option of conversing electronically with a pharmacist. Think about your Aunt Sue. Would she be comfortable with these options or would she prefer to go down the street to the local hospital, where a pharmacist is employed, and visits with him personally about her prescriptions and medications?

Many of you are parents. You remember that earaches never come at convenient times. Think about a young farm family. Saturday evening, three year old Sally develops an ear infection. The family drives 20 miles to the nearest hospital. The attending physician prescribes an antibiotic. The local pharmacy is closed and whether it's calving season, weather, or just distance, that family won't be making the trip back in to town for several days. The hospital provides sufficient medicine until the family can access the services of a commercial pharmacy. Why should that family even have to think about a repeat trip to a pharmacy when they could get everything they needed at the hospital pharmacy?

PO Box 7340 Bismarck, ND 58507-7340 Phone 701-224-9732 Fax 701-224-9529

Let us take another scenario. Let us say Sally's family lives in one of North Dakota's larger cities. It's late – Sally's Mom has been working all day – She just spent a couple of hours with Sally at the hospital's walk-in clinic – Sally is miserable because her ears are hurting – Mom is tired and still has things to do at home and get ready for work the next day. When Mom finally gets Sally's prescription in her hand, she can't just go to a pharmacy right there in the building, she has to get in her car and drive to the next available commercial pharmacy-- take Sally out of the car and wait again while her prescription is filled. That young Mom, had she sought services on the clinics hospital campus could have had her prescription filled immediately after seeing the doctor. Because she saw her physician in a distant clinic from the hospital campus, she cannot have her daughter's prescription at the time her daughter's physician visit. She's been denied access, choice and convenience because of a half-century old law turf protection law.

House Bill 1299 is not offered so that hospitals can operate pharmacies in competition with existing local pharmacies. Many already do. Instead, it is offered so that people – young and old – those who are sick and those who are trying to stay healthy or in some cases, stay alive - can get their prescriptions filled quickly and conveniently – by a knowledgeable pharmacist.

Madame Chairman, with your permission, I would like to ask Mr. John Kapsner to walk you through the bill. At the conclusion of his testimony, both he and I will be pleased to address any questions that you or the committee might have.

NDHA
North Dakota Healthcare Association

Vision
The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission
The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

TESTIMONY
OF
NORTH DAKOTA HEALTHCARE ASSOCIATION
IN SUPPORT OF
HOUSE BILL NO. 1299

Madame Chairman, members of the House Human Services Committee, my name is John Kapsner, legal counsel for the North Dakota Healthcare Association.

The North Dakota Healthcare Association was asked by some of its member institutions to look into the possibility of amending § 43-15-35 of the North Dakota Century Code. A concern expressed by some facilities was that current pharmacy ownership requirements unduly restrict the availability of pharmacy and make it difficult for hospital, clinic, and nursing home patients to fill their prescriptions.

Current State Law

Under North Dakota law, every pharmacist must obtain a license to practice pharmacy from the State Board of Pharmacy. The Board imposes rigorous standards on license applicants that include both educational and practical elements.

In addition to the individual license to practice pharmacy held by the pharmacist, the pharmacy itself must also obtain from the State Board of Pharmacy a permit to operate. Section 43-15-35 of the North Dakota Century Code enumerates the criteria for a permit to operate a pharmacy. Specifically, a pharmacy must comply with applicable rules and regulations; it must have appropriate equipment, facilities and other resources; it must be managed personally by a licensed pharmacist, and, finally, a pharmacy must be

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owned by a licensed pharmacist or a corporation or limited liability company, provided the majority of ownership of that entity is held by licensed pharmacists who are also actively and regularly employed in the management and operation of the pharmacy. In other words, under current law, all pharmacies must be both managed by a licensed pharmacist and majority-owned by licensed pharmacists.

Currently, there are two exceptions to the ownership requirement. First, there is a grandfather provision, which exempts all pharmacies that were permitted on or before July 1, 1963. Second, there is an exception for hospital pharmacies that furnish services only to patients of that hospital.

House Bill 1299 would not change any of the requirements for an operating permit. Specifically, House Bill 1299 does not eliminate the ownership requirement. Instead, House Bill 1299 specifically re-states the current exceptions to the ownership requirement, and makes two additional, narrow exceptions to the ownership requirement.

The "On-site" Pharmacy Exception

The first new exception is for hospital-owned pharmacies located at facilities where medical services are provided, namely, clinics and nursing homes. There are several reasons why it is important to create this "on-site" pharmacy exception.

The first reason is access. Not every clinic or hospital has a pharmacy on-site that sells to the general public, and most nursing homes do not have on-site pharmacies. Few pharmacies are open after regular business hours. This new exception would enable hospital, clinic, and nursing home pharmacies to continue to provide pharmacy products to patients during times when other retail pharmacies are closed. This is an important

exception, particularly in rural areas. It also recognizes that a significant and growing portion of medical care is outpatient care – which may occur at any hour. At the same time, the exception is appropriately limited to permit hospital-owned pharmacies only at facilities at which medical services are provided.

A second reason for the on-site pharmacy exception is convenience. Obviously, patients with prescriptions will often find it much easier to fill their prescription immediately after seeing their physician, rather than make an additional trip to a pharmacy. This is particularly true for the sick and elderly, for whom an additional trip may not be feasible.

A third reason for the on-site pharmacy exception is competition. As a general matter, increased competition results in better service and prices for customers. Allowing a hospital, clinic, or nursing home facility to establish an on-site pharmacy will encourage other retail pharmacies in the area to improve prices and service. The on-site pharmacy operates to improve access and convenience to prescriptions for patients.

The "Rural" Pharmacy Exception

The second new exception to the ownership requirement that would be created by House Bill 1299 reflects the need for improved pharmacy services in rural areas. Many small towns are no longer able to support a retail pharmacy, much less a pharmacy that is open more than normal weekday business hours. In such cases, patients simply are unable to fill prescriptions for needs that arise outside of those hours. In some cases, a small town economy may only be able to support one pharmacy. To remedy these problems, House Bill 1299 would create an exception to the ownership requirement for "rural" pharmacies.

To ensure the exception remains appropriately limited, House Bill 1299 provides that a "rural" pharmacy must be located in a community of less than 10,000 residents. Further, a "rural" pharmacy must owned by a hospital that has been designated a critical access hospital by the North Dakota Department of Health. The Critical Access Hospital program is a federal program that permits qualifying rural hospitals to receive cost-based reimbursement rather than traditional Medicare reimbursement. The program was established as part of Medicare's Rural Hospital Flexibility Program, designed to strengthen and improve rural health care. A "critical access hospital" is a hospital that is located in a rural area, at least thirty-five miles from another hospital, operates a limited number of inpatient beds, and provides 24-hour emergency medical services.

The new exception would permit a critical access hospital to have an on-site as well as off-site pharmacy, provided the off-site pharmacy is located within thirty-five miles of the hospital. There are two purposes for this provision. The first is to enable a critical access hospital to purchase a downtown retail pharmacy in a community in which the local pharmacist is retiring or moving away, and is unable to find a buyer for his or her pharmacy. The second reason for the provision allowing off-site pharmacies is to allow a critical access hospital to establish a satellite pharmacy in a neighboring rural community for the convenience of patients who live there.

In short, the "rural" pharmacy exception is designed to ensure rural patients receive adequate and convenient pharmacy services.

House Bill 1299 continues the requirement that every pharmacy be managed exclusively by a licensed pharmacist, who at all times exercises independent professional

judgment in the practice of pharmacy. This mandatory provision ensures the integrity and safety of pharmacy products and services patients receive, even where a pharmacy is owned by a non-pharmacist. At the same time, the additional exceptions enhance the ability of both hospitals and pharmacists to adequately and effectively provide services to the public.

Thank you for your consideration.

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Testimony to the House Human Services Committee
HB 1299
January 15, 2007
Bismarck, North Dakota

Presented by John Olson on behalf of:

Gary Boehler, Executive VP of Pharmacy
Thrifty White Stores
6901 E Fish Lake Rd #118
Maple Grove, MN 55369
(763) 513-4357

Chairperson Price, members of the House Human Services Committee:

I will start out with a real example of what happens when patient care does not occur. Ken Fix mentioned keeping 90% to 95% of all his snowbird patients that go south for the winter because of his good professional service. Well, here is the antithesis of that service. One night I was in a Walgreens pharmacy just a mile or so from where we live, and I observed a businessman in suit and tie drop off a prescription at the counter. He handed the prescription to a technician, and being curious, I wanted to see what happened when the prescription was returned. The technician brought the man's prescription back to the drop window, told him the price, and rang it up. He looked at the technician and asked if he was going to be counseled. The technician responded (and I heard this myself): "The pharmacist is too busy and does not have time." The gentleman picked up his prescription, did not say a word, and left the store. You can bet he will never be back.

1. Telepharmacy has made its niche in North Dakota as a workable, viable solution to providing pharmacy services in rural communities where the traditional business model for a pharmacy does not work because volume is insufficient to warrant having a pharmacist. After all, it IS the economic model that drives the professional model. An example: the five satellite clinics that Med Center closed because they could not support the correct economic model. It is no different for pharmacy - if you cannot make a profit, you shutter the doors. Those hospitals that claim they need pharmacy services should work with ND pharmacists who have an established pharmacy in that community or a nearby community and let that pharmacist hire a technician, put in a pharmacy based on a formulary of drugs worked out with physicians in that community, and work an economic model that makes sense. Instead, the hospitals want to put in their own pharmacy, likely driving an already existing rural pharmacy out of business, and then finding out in the end that their hospital based model will not work either. By that time, everyone has lost. The community is without a retail pharmacy, the rural hospital is without ANY pharmacy services, and now everyone is worse off than before. That is exactly what will happen in a state such as North Dakota where population is sparse to begin with, and in most areas of the state (except Cass and Burleigh counties) continues to decline. What makes these people think that this will work? Well, the answer to that comes next in my paragraph #2.

2. The rural access/critical access mantra is nothing more than a ruse to get retail pharmacies into the big clinics and larger communities across the state and either

displace existing pharmacies in those clinics, or become a competitor (how many of these hospitals run as non-profit groups?). Here are some examples of what I mean: Dave Olig is in a clinic setting in Fargo, Deb Greenwood in Dickinson, White Drug in Grand Forks, Ken Fix in Bottineau, White Drug in Cavalier, Steve Irsfeld in Dickinson, Tim Holland in West Fargo, and many others. Here in these larger communities is where the "action" will happen. Existing pharmacy owners who have given their careers to these locations will be booted out after leases expire, and/or retail pharmacies nearby a hospital or clinic setting will be forced to make a decision about staying in business. The hospital group will do everything in its power to get all the prescriptions from their patients that are possible and where those patients (many of them) are from rural areas that have a community pharmacy, the threat becomes very real that prescriptions that were destined to "go back home" stay in the big city hospital owned pharmacy. The whole purpose behind the ownership law established in 1963 was to preserve rural access. Repeal of this law jeopardizes rural access in this rural state with a declining population!

3. A good question during the hearing to those people representing the hospital groups is to ask them specifically where they have their sites set to put in pharmacies, and very pointedly ask them about rural communities today that do not have a local community pharmacy servicing the hospital. The response you get will be one of a blank look - why? Because they simply have not thought about the rural markets for pharmacies - only the large communities where there is an adequate patient base.

4. Ask the hospital group to show a proforma of how a hospital in a rural area (critical access or not) with an average bed census of 10 patients will pay a pharmacist $80,000 to $90,000 a year plus benefits, carry a minimum of $85,000 in inventory, build a pharmacy that meets the Board of Pharmacy minimum requirements, and show any kind of a profit to make it sustainable. I will give you the answer now: THEY CANNOT DO IT. Having been in retail for 37 years, and being very active in acquisitions for Thrifty White Drug, I know what it takes to maintain viability. It does not happen with 10 patients. In fact, in Minnesota, there has been an ongoing effort in SW Minnesota to have one pharmacist serve several hospital in a regional geographic area, and that has failed miserably. Number one, there is not enough volume to sustain three or four hospitals, and secondly, there are no pharmacists available to replace those that leave.

5. Pharmacists are in extremely short supply and with an increase of pharmacies the shortages will only become worse. Young pharmacists coming out of school today are not inclined to go to a rural area and small community. As a specific example, we have on the table a $15,000 signing bonus to a young pharmacist and the only hesitation is the rural community. This individual will go to work for us and wants to, but not likely in a small rural area of the state. In fact, any signing bonus for a metropolitan area will be significantly smaller, if any at all. We try to get pharmacists to these rural communities with incentives that can be helped to reduce any existing student loans (kind of our own loan forgiveness program).

6. If there is any kind of ownership by physicians in these hospitals and clinics, self referral becomes a major issue with Stark legislation, and I believe that needs to looked at to see if that exists in any of the hospital/clinic combinations today. I believe Stadter Clinic in Grand Forks has physician ownership as its model.

7. Third party payers in North Dakota have already wreaked havoc with pharmacy providers. Take a look at what BCBS through its PBM, Prime Therapeutics, did to pharmacy reimbursements in the last year. Cuts in the rural pharmacies averaged 15% or more, and in larger communities not considered rural, the cuts were in the 40% range. How does it make economic sense for hospitals to engage in this now?

8. I liken this bill to the one that was defeated two years ago during the session and in other previous sessions, and the comparison with the big hospital and clinic groups is the same as it is for the big box stores and giant chains (the large publicly held pharmacies) that want to see the ownership law overturned. Here is the comparison and it fits both sides. The big box stores use pharmacy as a loss leader to get customers into their stores to push a cart around a 100,000 square foot store and fill it up with high gross clothing, arts & crafts, jewelry, and other high gross profit seasonal goods. Pharmacy accounts for 4% or 5% of their business, so for them it becomes a model to do one stop shopping and make pharmacy the loss leader. As a result, staffing is below good standards, customer service suffers, and pharmacy does not fulfill its mission in ND as a profession. IT ONLY BECOMES A COMMODITY. Ask any of the big box stores, Walgreens, or CVS where they will put in their pharmacies if the ownership law is overturned and their answers will be: along I-94 and Highway 2 in those communities where they feel there is adequate traffic to support their stores. Theirs is not to help insure rural access - it is to suck all of those patients that they can OUT of rural markets and bring them into their stores where there already is traffic. Study Wal-Mart in many states, stick a pin in the map where they have locations, draw a 30 to 40 mile radius around their location, and then look at the number of stores (mom and pop stores, hardware stores, grocery stores, craft stores, pharmacies, gas stations) have closed. The same parallel applies with what the hospitals are attempting to do with this bill. If this becomes a reality, I guarantee if we look back 10 years from now, the picture I paint will be the landscape of ND. I have seen it happen for too many years to know what the real underlying purpose is.

I respectfully ask you to preserve rural access in North Dakota and vote DO NOT PASS on HB 1299.

Thank you.
Gary Boehler
Registered Pharmacist in the State of North Dakota

BOARD OF PHARMACY
State of North Dakota

John Hoven, Governor

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Gary W. Dewhirst, R.Ph.
Hettinger, Senior Member
Dewey Schlittenhard, MBA, R.Ph.
Bismarck
Rick L. Detwiller, R.Ph.
Bismarck
Laurel Haroldson, R.Ph.
Jamestown
William J. Grosz, Sc.D., R.Ph.
Wahpeton, Treasurer

TESTIMONY ON HOUSE BILL No. 1299
RELATING TO THE ISSUANCE OF PHARMACY PERMITS

HOUSE HUMAN SERVICES COMMITTEE
10:00 AM – FORT UNION ROOM – MONDAY- JANUARY 15TH, 2007

Chairman Price and members of the House Human Services Committee, for the record I am Howard C. Anderson Jr., R.Ph, Executive Director of the North Dakota State Board of Pharmacy. Thank you for the opportunity to speak with you today.

The North Dakota State Board of Pharmacy strongly supports the current law, which we refer to as "the pharmacy control law".

The laws you and your predecessors have passed or sustained, have served North Dakota very well in the area of Pharmacy services. We have 25 pharmacies per 100,000 people in North Dakota which is way ahead of the 16 in the next closest state. **WHAT A RINGING ENDORSEMENT FOR NORTH DAKOTA'S PHARMACY OWNERSHIP LAW.** We have more competition, more access, more service to North Dakota patients then any other state. Our Pharmacists provide excellent service to the patients of North Dakota. Pharmacy dispensing fees continue to gradually decline, while the cost of the drugs themselves continue to escalate. We have lost a few pharmacies but we have also opened a few. Pharmacist Kathy Nelson, who owns the store in Casselton, received a permit to put a telepharmacy in Arthur North Dakota. Just last week she called to ask if she could run a telepharmacy with a full time pharmacist because she had gotten the contract with the local nursing home, and needed more pharmacist time to serve the patients. Of course, the answer was yes. Dennis Johnson, the president of the North Dakota Pharmacists association, is not here today, because he is having the opening for a new pharmacy he is putting in a new clinic in Grand Forks.

Two years ago the North Dakota Senate defeated a similar bill, SB 2283, by a wide margin. Four years ago HB 1407 received just a few votes. A *Fargo Forum* Article before the 2005 session pointed out that "Medicare costs for prescription drugs in North Dakota are actually lower than almost all other states". In spite of the National advertising from some for a 4 dollar one month supply of generic drugs, per patient, per month, costs for prescription drugs are lower in North Dakota BECAUSE pharmacists here provide such a high level of service to their patients. Medications are taken appropriately, with proper counseling and patient information, and generics are dispensed at as high a rate as any place in the country. All this is due to the pharmacists of North Dakota operating under

the Laws & Rules, You, as our Legislature have created over the years. This is certainly NOTHING to be **ASHAMED** of.

Whenever you want good patient care, and personal attention for the customer, you have to have enough time and enough professionals to provide that care. North Dakota pharmacists have that ability, because of the environment you have created for us. We are the best in the country. PLEASE do not let that slip away.

It is **North Dakota** which is the leader in the country in providing Telepharmacy Services to rural areas, and we are working hard to extend telepharmaciy to rural hospitals. This is because of what you have allowed. We know that demographics and reimbursement rates are making it more difficult for our pharmacists to maintain services to rural hospitals, and we are not opposed to a reasonable accommodation to allow some different scenarios, which might help that situation, while not jeopardizing the good things we have in North Dakota.

Allow me to review the History of this law for you. NDCC 43-15-35 was passed in 1963 by the North Dakota Legislature with the intention of keeping the professional pharmacist with his/her ethical standards, in control of pharmacies. The Oath of the Professional Pharmacist to keep concern for their patients uppermost in their professional practice contributes significantly to protection of the public's health, welfare and safety.

In 1963 when the law was passed, no one had ever envisioned hospitals would be in the out-patient pharmacy business. Probably, at that time, no one envisioned that they would employ most of the physicians either.

There have been attempts to legislatively repeal NDCC 43-15-35 in 1975, 1987, 1993, 2003, and 2005 and court challenges in 1968, 1972 and 1982. In all cases, these attempts were defeated by large margins. We believe that every Governor since 1963 has supported the law.

In 1972, a decision by the North Dakota State Board of Pharmacy to deny a pharmacy license to Snyder's Drug Stores was appealed to the North Dakota District Court and the North Dakota Supreme Court. These courts relied on a 1928 US Supreme Court Decision called *Liggett v. Baldridge* to say the law was unconstitutional. The North Dakota State Board of Pharmacy appealed to the United States Supreme Court and in the case argued by Bismarck Attorney A. William Lucas, the US Supreme Court, by a 9 to 0 opinion reversed the 1928 *Liggett v. Baldridge* decision and upheld the Constitutionality of the North Dakota Law. On remand the North Dakota Supreme Court agreed. Attorney Lucas stated that he believes that this law has been one of the most thoroughly constitutionally and legislatively tested statutes in the North Dakota Century Code.

In the decision, written by Justice William O. Douglas, he stated very clearly, "*those who control the purse strings control the policy*". This has been the basic tenet from the beginning in the North Dakota State Board of Pharmacy's interpretation and application of this law.

Let me explain grandfathering. In 1963, a provision was made to allow pharmacies currently in business to stay in business as long as the ownership of those pharmacies did not change.

Until 1996 the Board of Pharmacy interpreted that to mean retail pharmacies. In 1996, the North Dakota Supreme Court said that it looked to them like hospitals, which had pharmacy permits in 1963, could do at their licensed locations whatever they wanted to with their pharmacy permit. Even though legislators in 1963 did not envision hospitals in the out-patient business, many of them who continue to hold their pharmacy permit are in the out-patient pharmacy business at their hospital's permitted location as grandfathered permit holders.

There are currently nine *grandfathered* hospital pharmacies in North Dakota out of the total of forty-seven licensed hospitals in the state. This Bill would allow all forty-seven Hospitals to own Pharmacies at any location they wish to choose.

Within the hospital where the hospital pharmacy is serving their in-patients, there are procedures which link the hospital pharmacist with the Pharmacy and Therapeutics Committee through the Medical Staff to the Board of Directors of the hospital. This allows all policies and procedures of the hospital/healthcare institution to be vetted through these several levels of control. Once we get outside the hospital/healthcare institution in a clinic setting or another location, these requirements do not apply. Simply, a non-pharmacist administrator may be directing the pharmacy staff and this is what NDCC 43-15-35 intended to prevent.

The Supreme Court accepted your reasons for our Law in 1973. Today we see workplace issues and medication errors headlined in the national pharmacy press. We see pharmacists in some pharmacies that have had to form a union in order to insist that they be allowed a bathroom, lunch or work break during their shifts. This does not happen in North Dakota. The environment you and your predecessors in the Legislature put in place has served North Dakota consumers well.

In North Dakota bean counters do not determine how many prescriptions must be filled before there is an additional pharmacist or pharmacy technician to help. Pharmacists make those decisions.

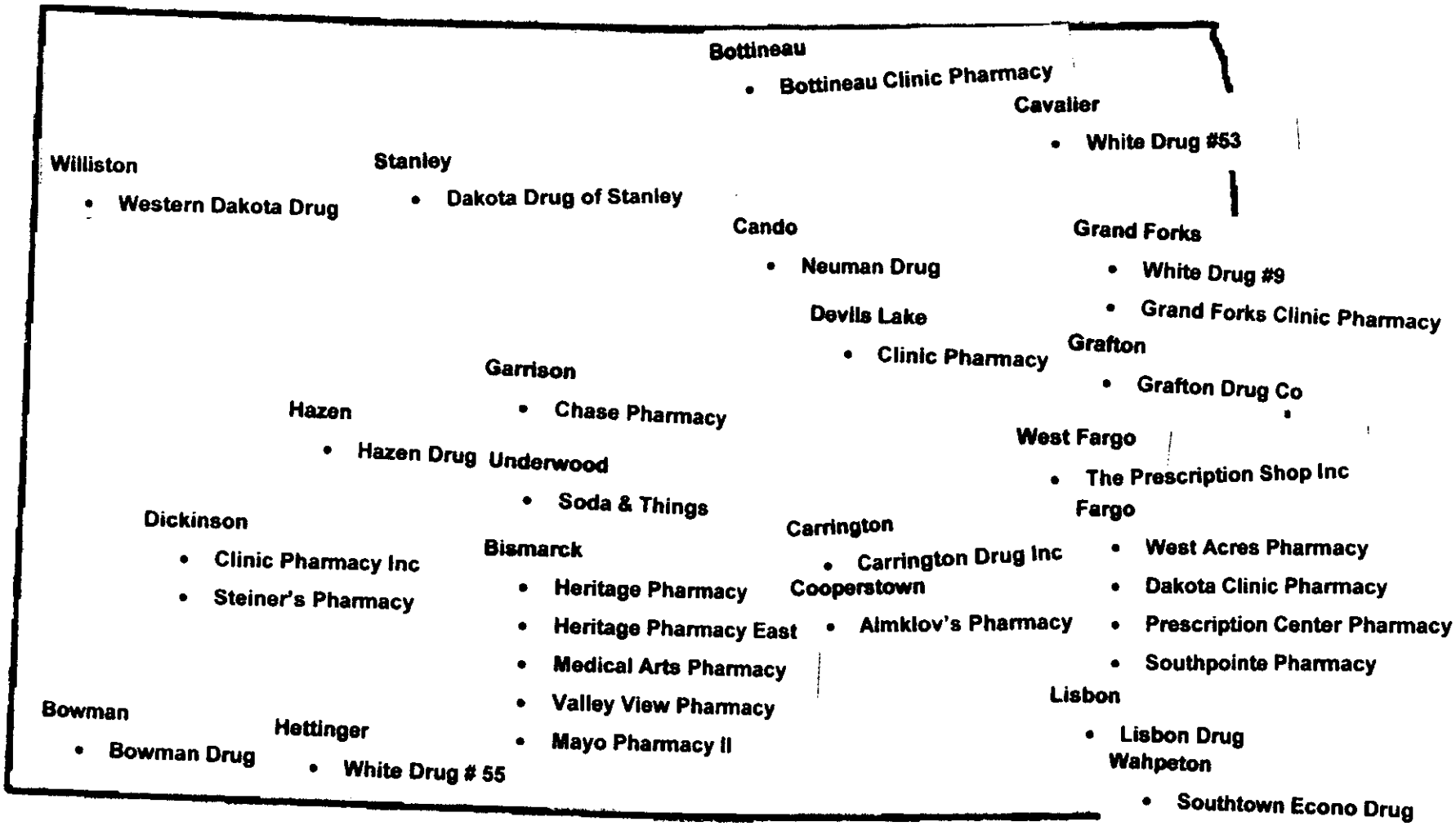
The ownership law is the best opportunity for pharmacists to be masters of their own destiny in the patient's best interest. The ownership law insures that pharmacists who have pledged their oath to uphold healthcare standards and professional ethics determine policy.

North Dakota can serve as a light for the rest of the county. We have the best level of pharmacy services in practice in North Dakota, compared to ANY state.

Remember, *"those who control the purse strings control the policy"*

We hope you agree and will keep it that way.

Thank you.


Bottineau
• Bottineau Clinic Pharmacy
Cavalier
• White Drug #53
Williston
• Western Dakota Drug
Stanley
• Dakota Drug of Stanley
Cando
• Neuman Drug
Grand Forks
• White Drug #9
• Grand Forks Clinic Pharmacy
Devils Lake
• Clinic Pharmacy
Grafton
• Grafton Drug Co
Garrison
• Chase Pharmacy
Hazen
• Hazen Drug
West Fargo
• The Prescription Shop Inc
Underwood
• Soda & Things
Dickinson
• Clinic Pharmacy Inc
• Steiner's Pharmacy
Carrington
• Carrington Drug Inc
Bismarck
• Heritage Pharmacy
• Heritage Pharmacy East
• Medical Arts Pharmacy
• Valley View Pharmacy
• Mayo Pharmacy II
Cooperstown
• Almklov's Pharmacy
Fargo
• West Acres Pharmacy
• Dakota Clinic Pharmacy
• Prescription Center Pharmacy
• Southpointe Pharmacy
Bowman
• Bowman Drug
Hettinger
• White Drug # 55
Lisbon
• Lisbon Drug
Wahpeton
• Southtown Econo Drug

Bismarck

- Heritage Pharmacy
- Heritage Pharmacy East
- Medical Arts Pharmacy
- Valley View Pharmacy
- Mayo Pharmacy II

Bottineau

- Bottineau Clinic Pharmacy

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- Hazen Drug

Hettinger

- White Drug # 55

Lisbon

- Lisbon Drug

Stanley

- Dakota Drug of Stanley

Underwood

- Soda & Things

Wahpeton

- Southtown Econo Drug

West Fargo

- The Prescription Shop Inc

Williston

- Western Dakota Drug

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Testimony HB 1299

January 15, 2007 – House Human Services

Chairwoman Price and members of the Committee:

For the record, my name is Mike Rud. I'm the executive director of the North Dakota Retail Association. NDRA represents hundreds of business outlets across the state, including a growing numbers of pharmacies. I'm here urging you to recommend a **"DO NOT PASS" on HB 1299.**

NDRA and its pharmaceutical members are adamantly opposed to the repealing of the current pharmacy ownership law. In particular, NDRA members are very concerned about the future of rural pharmacies in towns where competition could arise from a local health care organization. NDRA believes repealing the law will jeopardize the much needed services local pharmacists now provide in so many remote areas of our state.

Again, NDRA members urge a **"DO NOT PASS" recommendation on HB 1299.**

This concludes my brief testimony. Thank you for your time and consideration on this very important matter.

David Olig - Fargo

House Bill #1299
ND House Health and Human Services Committee
Pharmacy Ownership

Chairwoman Price and committee members.

First let me thank you for allowing me to speak to you today in opposition to this bill.

It seems we have been here before and had this same discussion. The concept was in my opinion a bad idea then, (and voted down by a resounding majority), and I truly believe it is a bad idea today.

Just exactly why do the "nonprofit hospitals" (some of the largest corporations in the state) feel the need to enter into or control the outpatient pharmacy sector?

A. Access to pharmacists services.

In North Dakota I believe that if there is a clinic or hospital in a community, there is a pharmacy. The Board of Pharmacy can substantiate that.

1. Allowing outpatient pharmacies in rural hospital settings puts the existing pharmacy provider at tremendous risk.. Loss of any pharmacy provider in a rural community decreases access to that care by the local patients. North Dakota lost 7 pharmacies last year. These providers are extremely difficult to replace, if you ever could. Most of them have dedicated their lives to their practices.
2. Staffing a full time pharmacist at a rural outpatient pharmacy would seem extremely cost prohibitive. Especially in todays reduced reimbursement environment. Current costs for a pharmacist in ND are approximately $90,000. Getting someone to move to a rural area to practice is a totally different and very real problem.
3. I don't believe there is a "metro" (if you can use that word in ND) region in the state that has any major access to pharmacist service issues. There are very few 24 hour outpatient pharmacies in the state (if any), but that is the result of economic factors, not the placement of pharmacies. There are pharmacies in the major clinics in North Dakota and if it were economically feasible, and necessary, they would be open extended hours to serve these patients. It is simply not economically feasible in these markets to assume 24 hour coverage. That is not to say that there could not be on call coverage etc, it the market required it.
4. In North Dakota I believe that if there is a clinic or hospital in a community, there is a pharmacy. The Board of Pharmacy can substantiate that.
5. If there is an issue with hospital pharmacy coverage in these rural hospitals, ND has one of the most advanced and respected methods of providing pharmacy services available. It is the telepharmacy model. It works well in the outpatient setting and there seems to be no real reason it can't work in rural hospital settings as well. I understand the Board of Pharmacy and the Hospital Pharmacists Society are addressing this as a possibility.

Respectfully submitted,

David Olig, R.Ph.
Southpointe Pharmacy, Fargo

Testimony to the House Human Services Committee
HB 1299
January 15, 2007
Bismarck, North Dakota

Presented by Bob Treitline:

Bob Treitline, R.Ph.
ND Pharmacy Inc
363 15th Street West
Dickinson, ND 58601
(701) 225-4434

Chairperson Price, members of the House Human Services Committee:

In reference to HB1299 section 2 subsection b3, this provision does not protect the existing pharmacies that are leasing space from clinics owned by hospitals. This provision would jeopardize those pharmacy owners by potentially losing their place of business through cancellation of the lease. These pharmacists have not only invested resources and time in these facilities but many have invested their whole professional career . This potential loss would be unfair and wrong for any business in any profession.

We must not let this bill pass. An example of the investment I mentioned above is: Clinic Pharmacy located in the Dickinson Clinic (owned by MedCenter One) . Deb Greenwood has not only made the financial investment but has operated that pharmacy for 25 years (most of her professional career). As a small business owner she would be at risk of losing her place of business. We must protect our small business owners in North Dakota, they are the heart and soul of our communities.

In reference to section 2 subsection b4 again, there is no protection for the small town pharmacy owner that may be faced with the hospital owners opening a retail pharmacy across the street from their store. Any split or reduction in volume for any small town pharmacy would be catastrophic. We can not afford to lose any rural community pharmacies, they are essential for health care access.

Again, please take the position DO NOT PASS HB 1299.

Thank you for your time and consideration.

Bob Treitline
Registered Pharmacist in the State of North Dakota

Testimony on HB 1299 to the House Human Services Committee
January 15, 2007
Bismarck, North Dakota

Presented by John Olson on behalf of:

Jerry Gratz, R.Ph.
Western Dakota Pharmacy
1102 Main
Williston,ND 58801
(701) 572-7797

Chairperson Price and Members of the House Human Services Committee:

There is currently a shortage of pharmacists nationwide and it is expected to get worse. This has compromised access to timely and quality pharmacy services in many areas of the country outside of North Dakota (wait times for filling prescriptions can run in excess of 2 hours in many cities & the pharmacist has little time for direct interaction with the patient).

In North Dakota, the average wait time for filling your prescription at your local, Pharmacist Owned Pharmacy, is usually under 10 minutes. When you have questions, problems or concerns, you are not only able to talk directly with the pharmacist that fills your prescriptions, but that pharmacist is also the same person who sets the store's policies. When the pharmacist sets policies, he knows that he will have to justify that policy, face to face with the patient. Policies designed to improve the bottom line, don't look so good when you have to look into the eyes of the people the affect, "Your Patients".

The North Dakota ownership law has provided incentive for a pharmacist to stay in North Dakota. This has increased the available "pharmacist man-power" per patient population which has allowed North Dakota to enjoy an extremely high level of pharmacy care.

Changing the law now, pulls the rug out from under existing pharmacies, (especially those now leasing space in clinics owned by hospitals). This would provide for a "Virtual Confiscation" of their pharmacy where they have spent years building a pharmacy practice with a reputation of excellence in pharmacy care and service to the community.

I have been serving the people of Williston in my clinic pharmacy for 28 years ..... my lease is due for renewal .....if you vote in favor of House Bill 1299 ..... you are voting me out of business.

I respectfully ask you to preserve rural access in North Dakota and vote DO NOT PASS on HB 1299.

Thank you.
Jerry Gratz
Registered Pharmacist in the State of North Dakota

Testimony to the House Human Services Committee
HB 1299
January 15, 2007
Bismarck, North Dakota

Presented by John Olson on behalf of:

Dennis Johnson, R.Ph.
Wall's Medicine Center Inc.
708 S Washington Street
Grand Forks, ND 58201
(701) 746-0497
and President of the North Dakota Pharmacy Service Corporation
a wholly owned subsidiary of the North Dakota Pharmacists Association
and comprised of retail pharmacy owners

Chairperson Price, members of the House Human Services Committee:

I respectfully ask you to vote no on HB 1299 for the following reasons:

1. The current law does not prevent any person or corporation from having an operational pharmacy in their facility. It simply requires that the controlling ownership be that of a registered pharmacist.
    a. It can be a 100% pharmacist owned and operated pharmacy via a leased situation
    b. It can be a 0-49% non-pharmacist ownership shared with a North Dakota registered pharmacist owner the remaining percent.

    As it has been said before, "he who controls the finances controls the operation" and I feel if patients or consumers have interaction with a controlling owner pharmacist the customer or patients interests are served best.
2. If this bill is enacted, what happens to many pharmacists who have invested a lifetime of work serving patients in institution owner facilities via leases or other arrangements?
3. My third and final point is the non-profit corporation competing with a for-profit business. Many non-profit entities have for-profit entities and the money often flows very easily between these two. A tax paying business simply cannot withstand that type of competition.

I respectfully request a DO NOT PASS on HB 1299.

Thank you.
Dennis Johnson
Pharmacist Owner Wall's Medicine Center
President North Dakota Pharmacy Service Corporation

Testimony to the House Human Services Committee
HB 1299
January 15, 2007
Bismarck, North Dakota

Presented by John Olson on behalf of:

Ken Fix, R.Ph.
Bottineau Clinic Pharmacy
314 Ohmer Street
Bottineau, ND 58318
(701) 228-2220

Chairperson Price, members of the House Human Services Committee:

Is a hospital or large chain pharmacy going to supply unit doses or consulting services to the local nursing homes? My pharmacy does.

Why do 90+% of my patients (both cash and insured users) still choose to use my pharmacy when they go south for the winter even though Walmart, CVS or Walgreens are all available? I am told it is because of personable, reliable, and yes even **COMPETITIVE PRICING**.

Yesterday we filled four new prescriptions originating outside of North Dakota. Three were faxed to us and one was phoned in. These prescriptions came from: one from Florida, two from Arizona and one from California. Two were insured patients, two were cash patients.

I have been called at all hours of the night to do emergency services, including for hospital inpatients because the hospital pharmacy here carries a limited formulary!!

Trinity already owns 2 pharmacies in Minot and routinely just calls their prescriptions to their pharmacies.

CVS Pharmacy is in the process of buying Caremark, a Pharmacy Benefit Manager (PBM). Do we really want to put healthcare in North Dakota with these entities with direct conflict of interest.

I respectfully ask you to preserve rural access in North Dakota and vote DO NOT PASS on HB 1299.

Thank you.
Ken Fix
Registered Pharmacist in the State of North Dakota

NDPhA
NORTH DAKOTA PHARMACISTS ASSOCIATION

Testimony to the House Human Services Committee
HB 1299
January 15, 2007
Bismarck, North Dakota

Presented by John Olson on behalf of:

Dennis Johnson, R.Ph.
President
North Dakota Pharmacists Association
(701) 258-4868

Chairperson Price, members of the House Human Services Committee:

In 2004, the North Dakota Pharmacists Association conducted a poll of its members. The results of that poll were two to one in support of the ownership law. The North Dakota Pharmacists Association Board of Directors reviewed the survey and comments submitted and voted to publicly support the ownership law.

As President of the North Dakota Pharmacists Association, and on the behalf of its Board of Directors and Members I respectfully request a DO NOT PASS on HB 1299.

Thank you.
Dennis Johnson
President North Dakota Pharmacists Association

COMPANY	ADDRESS_LINE_1	CITY	ZIP	PHARM_	PHARM_LIC_CLASS
Arthur Drug	340 Main Street	Arthur	58006	553	Class K
Ashley Drug Company	P O Box 70	Ashley	58413-0070	92	Class A
Ashley Medical Center Pharmacy	P O Box 450	Ashley	58413-0450	207	Class B
Beach Pharmacy, Inc	95 Central Ave South	Beach	58621-0880	569	Class K
Beulah Drug Company	147 W Main	Beulah	58523-0099	145	Class A + K
Arrowhead Plaza Drug Inc.	1116 North 3rd St	Bismarck	58501	329	Class A
CVS Pharmacy #8614	2700 State Street	Bismarck	58501-0669	109	Class A
CVS Pharmacy #8628	601 Kirkwood Mall	Bismarck	58504	107	Class A
Dakota Pharmacy of Bismarck, Inc.	705 E Main Ave Suite 100	Bismarck	58502-0835	5	Class A
Dakota Precision Rx Inc	705 E Main Ave Suite 200	Bismarck	58501	428	Class A
Econo Pharmacy, Inc.	1190 W Turnpike Ave	Bismarck	58501	89	Class A
Gateway Pharmacy Inc.	3101 North 11th St Suite 2	Bismarck	58503	91	Class A
Gateway Pharmacy South	835 S Washington St	Bismarck	58504	90	Class A
Heritage Pharmacy East, Inc.	1000 East Rosser	Bismarck	58501	154	Class A
Heritage Pharmacy Inc.	401 North 9th Street	Bismarck	58501	141	Class A
Holiday Professional Pharmacy, Inc	1140 E Bismarck Expressway Ave	Bismarck	58504	100	Class A
Mayo Pharmacy, Inc.	303 North 4th Street	Bismarck	58501	70	Class A + D
Mayo Pharmacy, Inc. #II	1100 East Blvd Ave	Bismarck	58501	71	Class D
Medcenter One Hospital Pharmacy	P O Box 5525	Bismarck	58506-5525	187	Class B + A
Medicine Shoppe [The]	1304 East Blvd Ave	Bismarck	58501	56	Class A
ND State Penitentiary Pharmacy	3100 Railroad Ave	Bismarck	58506-5521	170	Class H
Northbrook Drug	1929 N Washington St	Bismarck	58501	20	Class A
Professional Pharmacy, Inc.	1016 N 28th Street	Bismarck	58501	24	Class A + D
St Alexius Med Ct Pharmacy	P O Box 5510	Bismarck	58506-5510	190	Class B + A + C
St Alexius Outpatient Pharmacy	PO Box 5510	Bismarck	58506-5510		
Valley View Pharmacy	2425 Hillview Ave	Bismarck	58501	586	Class A
White Drug #05	117 North 5th Street	Bismarck	58501	69	Class A
Bottineau Clinic Pharmacy	314 Ohmer Street	Bottineau	58318	60	Class A
St Andrew's Hospital Pharmacy	316 Ohmer	Bottineau	58318	182	Class B + D
Thompson Drug	505 Main St	Bottineau	58318-0085	132	Class A + K
Bowman Drug Company [The]	12 N Main	Bowman	58623-0197	62	Class A
Southwest Healthcare Services Pharmacy	14 6th Ave SW - P O Box C	Bowman	58623	481	Class B
Neumann Rexall Drug	412 Main Street	Cando	58324-0459	52	Class A

Towner Co Medical Center Pharmacy	Hwy 281 NBox 688
Carrington Drug, Inc.	956 Main Street
Carrington Health Center Pharmacy	800 N 4th St - P O Box 461
Seaburg Drug Inc.	990 Main Street
Casselton Drug Inc	P O Box 250
Pembina Co Memorial Hospital Pharmacy	P O Box 380
White Drug #53	P O Box 249
Ye Olde Medicine Shoppe, Inc.	102 Division Ave S
Health Center Pharmacy	111 Main Street East
Almklov's Pharmacy	848 Burrell Ave-Box 627
Cooperstown Medical Center Pharmacy	1200 Roberts Ave NE
J. Co. Drug Inc	120 North Main
St Lukes Hospital Pharmacy	PO Box 50
Clinic Pharmacy	P O Box 1100
Mercy Hospital Pharmacy	1031 7th Street NE
Ramsey Drug, Inc.	413 4 Ave NE
White Drug #47 dba Bell Drug	P O Box 772
White Drug #63	425 College Drive S #10
Clinic Pharmacy, Inc.	938 2nd Ave West
Greene Drug & Gift Co.	16 West Villard Street
Irsfeld Pharmacy	33 9th Street West
Medicine Shoppe [The]	431 West Villard
ND Pharmacy Inc	363 15th Street West
St Joseph's Hospital & Health Center Phan	30 7th Street West
Steiner's Pharmacy	352-C 1st Street E
White Drug #34	Prairie Hills Mall
Drayton Drug	106 N Main Street
Peace Garden Pharmacy	18 Main Street SW
The Prescription Shop	P O Box 405
Economy Drug Inc	201 North Main
Jacobson Memorial Hospital Pharmacy	601 E Street N - Box 367
Ellendale Pharmacy	117 Main Street
Enderlin Pharmacy	308 Railway
Bethany Pharmacy, Inc.	201 S University Dr

Cando	58324-0688	195	Class B
Carrington	58421	162	Class A
Carrington	58421-0461	191	Class B + K
Carrington	58421	96	Class A
Casselton	58012-0250	230	Class B + K
Cavalier	58220-0380	542	Class B
Cavalier	58220-0249	503	Class A
Cavalier	58220-4005	137	Class A + K
Center	58530	517	Class K
Cooperstown	58425-0627	33	Class A
Cooperstown	58425-7101	320	Class B
Crosby	58730-0050	25	Class A
Crosby	58730-0050	209	Class B
Devils Lake	58302-1100	42	Class A
Devils Lake	58301	179	Class B
Devils Lake	58301	84	Class A
Devils Lake	58302-0772	374	Class A
Devils Lake	58301	339	Class A
Dickinson	58601	86	Class A
Dickinson	58601	43	Class A + D
Dickinson	58601	143	Class A
Dickinson	58601	12	Class A
Dickinson	58601	35	Class A
Dickinson	58601	186	Class B
Dickinson	58601	45	Class A
Dickinson	58601	76	Class A
Drayton	58225-340	330	Class A
Dunseith	58329-0729	133	Class A
Edgeley	58433-0405	94	Class A
Elgin	58533-0308	112	Class A
Elgin	58533-0367	212	Class B
Ellendale	58436-0780	17	Class A
Enderlin	58027	328	Class K
Fargo	58103	16	Class D

Clinical Supplies Management Inc.	4733 Amber Valley Parkway	Fargo	58104	470	Class I -
CVS Pharmacy #8612	2401 13th Ave S	Fargo	58103	108	Class A
CVS Pharmacy #8613	1321 19th Ave N	Fargo	58102	106	Class A
Dakota Clinic Pharmacy	1702 S University Drive	Fargo	58103-6001	114	Class A
Family HealthCare Pharmacy, NDSU	306 4th Street North	Fargo	58102	117	Class H
Innovis Health Pharmacy	3000 32 Ave SW	Fargo	58104	459	Class B
Linson Pharmacy, Ltd.	3175 25th Street S	Fargo	58103	6	Class A
Medical Pharmacy	100 S 4th Street	Fargo	58103	48	Class A + C
Medical Pharmacy South	4151 45th Street S	Fargo	58104	408	Class A
Medical Pharmacy West	4101 13th Ave S	Fargo	58104	146	Class A
Medicine Shoppe [The]	2800 N Broadway	Fargo	58102-1482	136	Class A
Medicine Shoppe The	1605 S University Dr	Fargo	58103	135	Class A
MeritCare Broadway Pharmacy	737 Broadway	Fargo	58122-0001	309	Class A
MeritCare Hospital Pharmacy	801 Broadway North	Fargo	58122	315	Class B + A
MeritCare Hospital Pharmacy-S University	1720 S University Dr	Fargo	58103	539	Class B
Metro Drug Co	123 Broadway	Fargo	58102-5235	87	Class A
NDSU Student Wellness Center Pharmacy	NDSU- Box 5313	Fargo	58105-5313	168	Class H
NDSU-College of Pharmacy	Sudro Dispens Lab	Fargo	58105-5055	166	Class H
Northport Drug	2522 N Broadway	Fargo	58102	381	Class A
Pharmacare, Inc.	3240 15th Street S	Fargo	58104	570	Class A
PRACS Pharmacy, PA	4801 Amber Valley Parkway	Fargo	58106-9358	526	Class I
Prairie Pharmacy FA1	4731 13th Ave SW	Fargo	58103	604	Class A
Prescription Center Pharmacy	2701 13th Ave S	Fargo	58103	2	Class A
SCCI Hospital - Fargo	1720 S University Drive	Fargo	58103	441	Class B
Southpointe Pharmacy	2400 32nd Ave S	Fargo	58103	1	Class A
Thrifty Drug Limited	1521 S University Dr	Fargo	58103	128	Class A
Thrifty Drug Southgate	1532 32nd Ave South	Fargo	58104	129	Class A
West Acres Pharmacy	3902 S 13 Ave # 508	Fargo	58103	113	Class A
White Drug #39	1401 33rd St SW	Fargo	58103	77	Class A
White Drug #52	712 38th Street NW #A	Fargo	58102	473	Class D
White Drug #61	708C 38th Street NW	Fargo	58102	404	Class D + F + K
Nilles Drug, Inc.	58 S Main Ave	Fessenden	58438-0186	153	Class A
Forman Drug	P O Box 35	Forman	58032-0035	19	Class A + K
Chase Pharmacy Inc	21 N Main	Garrison	58540-0189	155	Class A + K

Garrison Memorial Hospital Pharmacy	407 3rd Ave SE	Garrison	58540	172	Class B + K
Glen Ullin Drug	113 South Main	Glen Ullin	58631-0670	29	Class A
Christian Unity Hospital Pharmacy	164 W 13th Street	Grafton	58237	210	Class B
Grafton Develop Ctr Pharmacy	West 6th Street	Grafton	58237	169	Class H + D
White Drug #65	544 Hill Avenue	Grafton	58237	643	Class A
KB Pharmacy dba Grafton Drug	501 Hill Ave	Grafton	58237	730	Class A
Altru Health System Pharmacy	1200 S Columbia Road	Grand Forks	58202	180	Class B + A + C
CVS Pharmacy #8620	1950 32nd Ave S Ste A	Grand Forks	58201	123	Class A
Family Medicine Residency Pharmacy	725 Hamline Street	Grand Forks	58203-2819	477	Class H
Grand Forks Clinic Pharmacy	P O Box 13115	Grand Forks	58208-3115	46	Class A
Skip's Budget Drug	2015 Library Circle #102	Grand Forks	58201	102	Class A
Theige Drug Inc. dba Medicap Pharmacy	1395 S Columbia Rd Ste C	Grand Forks	58201	322	Class A
Thrifty*White Drug #9	715 S Washington St	Grand Forks	58201	72	Class A
UND Student Health Pharmacy	P O Box 9038	Grand Forks	58202-9038	116	Class H
Wall's Medicine Center, Inc.	708 S Washington Street	Grand Forks	58201	139	Class A
White Drug #30	1380 S Columbia Rd #1	Grand Forks	58201	75	Class A
Gwinner Gifts and Telepharmacy	19 N Main Street	Gwinner	58040	719	Class K
Hankinson Drug	P O Box 160	Hankinson	58041-0160	4	Class A + K
Sears dba Medicine Shoppe #1677	722 Lincoln Avenue	Harvey	58341	216	Class A
Service Drug and Gift Inc.	815 Lincoln Ave	Harvey	58341	8	Class A
St Aloisius Hospital Pharmacy	325 E Brewster St	Harvey	58341	184	Class B
Hazen Drug Inc.	30 W Main	Hazen	58545-0528	156	Class A
Sakakawea Medical Center Pharmacy	510 8th Ave NE	Hazen	58545	196	Class B
Brick City Drug	605 Main	Hebron	58638-0432	30	Class A
West River Regional Med Ctr Pharmacy	1000 Highway 12	Hettinger	58639	181	Class B + C
White Drug #55	P O Box 750	Hettinger	58639-0750	511	Class A
Hillsboro Medical Center Pharmacy	12 3rd St SE Box 609	Hillsboro	58045-0609	103	Class B
Hillsboro Rexall Drug Inc	13 North Main Street	Hillsboro	58045-0820	63	Class A
James River Correctional Center Pharmacy	2521 Circle Drive	Jamestown	58401	584	Class H
Jamestown Hospital Pharmacy	419 Fifth Street NE	Jamestown	58401	173	Class B
Medicine Shoppe [The]	703 1st Ave S	Jamestown	58401	126	Class A
ND State Hospital Pharmacy	2605 Circle Drive	Jamestown	58401	188	Class B
Walz Pharmacy, Inc.	213 1st Ave North	Jamestown	58401	32	Class A
White Drug #45	310 First Ave S	Jamestown	58401	340	Class A

White Plaza Drug #15	410 10th Street SE	Jamestown	58401	73	Class A
Kenmare Com Hospital Pharmacy	317 1st Ave NW	Kenmare	58746	336	Class B
Kenmare Drug Co	P O Box 895	Kenmare	58746-0895	49	Class A + K
Killdeer Pharmacy Inc.	P O Box 745	Killdeer	58640-0238	58	Class A + K
Lakota Drug & Gift	117 Main	Lakota	58344-0309	254	Class A
LaMoure Drug Store, Inc.	Omega City Plaza	LaMoure	58458-0175	150	Class A + K
Cavalier County Memoral Hospital Pharmac	909 2nd Street	Langdon	58249	183	Class B
Langdon Drug Inc	706 3rd Street	Langdon	58249	509	Class A
Larimore Drug & Gift, Inc.	P O Box 438	Larimore	58251-0438	148	Class A
Julie's Pharmacy & Home Decor	47 Wiley Ave South	Lidgerwood	58053	348	Class K
Linton Drug Company	121 N Broadway	Linton	58552-0700	93	Class A
Linton Hospital Pharmacy	518 N Broadway-Box 700	Linton	58552-0700	208	Class B
Lisbon Area Health Services Pharmacy	P O Box 353	Lisbon	58054-0353	582	Class B + K
Lisbon-Sheyenne Pharmacy	P O Box 113	Lisbon	58054-0113	308	Class A + K
North Dakota Veterans Home Pharmacy	1400 Rose Street	Lisbon	58054-0673	248	Class H + K
Sheyenne Valley Drug	P O Box 601	Lisbon	58054-0601	149	Class A + K
White Drug #57 - Maddock	108 Central Ave	Maddock	58348-0370	218	Class K
Gateway Pharmacy - Mandan	500 Burlington Street SE	Mandan	58554	347	Class A
Mandan Drug, Inc.	316 W Main Street	Mandan	58554	67	Class A
Medicine Shoppe [The]	403 1st Street NW	Mandan	58554	620	Class A
SCCI Central Dakotas Hosp Pharm	1000 18th Street NW	Mandan	58554	323	Class B + K
Thrifty*White Drug #43	511 First Street NW	Mandan	58554	3	Class A
Aasen Drug Inc.	15 East Main Street	Mayville	58257	64	Class A
Union Hospital Pharmacy	42 6th Ave SE	Mayville	58257	194	Class B
McCLusky Rexall	210 Main Street	McClusky	58463-0578	530	Class K
McVille Drug	P O Box 247	McVille	58254-0247	50	Class A
Nelson County Health Systems Pharmacy	Box 367 - 200 N Main St	McVille	58254-0367	192	Class B
Alternate Care, Inc.	601 18th Ave SE #103	Minot	58701	18	Class C
B & B Northwest Pharmacy	20 Burdick Expwy W	Minot	58701	648	Class A
Center for Family Medicine Pharmacy	1201 11th Ave SW	Minot	58701-3847	363	Class H
CVS Pharmacy #8611	2400 10th St SW	Minot	58701	105	Class A
KeyCare Pharmacy	400 Burdick Express E #201	Minot	58701	22	Class A
Market Pharmacy	1930 S Broadway	Minot	58701	97	Class A
Medicine Shoppe	P O Box 277	Minot	58702-0277	158	Class A

Natural Health Shoppe	1620 S Broadway	Minot	58701	393	Class A
Trinity Hospital Pharmacy	P O Box 5020	Minot	58702-5020	211	Class B +C
Trinity-St Joseph's Hospital Pharmacy	407 3rd Street SE	Minot	58701	310	Class C
White Drug #17	1015 S Broadway Suite 3	Minot	58701	74	Class A
White Drug #40	1600 2nd Ave SW	Minot	58701	78	Class A
White Drug #62	P O Box 266	Mohall	58761-0266	720	Class K
Mott Drug Store, Inc	216 Brown Ave	Mott	58646	552	Class A + K
Napoleon Drug	P O Box 10	Napoleon	58561-0010	494	Class A + K
New England Drug	713 E Main	New England	58647-0368	590	Class K
Seaburg Drug Inc	4 N 8th Street	New Rockford	58356	95	Class A
New Salem Pharmacy	Goldenwest Shop Ctr- Box H	New Salem	58563	122	Class A
Larsen Service Drug Inc	334 Main Street	New Town	58763-0460	390	Class K
Northwood Deac Health Ctr Pharmacy	4 North Park	Northwood	58267	214	Class B
Paul Bilden Pharmacy	10 North Main Street	Northwood	58267	14	Class A + D
Dockter's Rexall Drug, Inc.	503 Main Ave	Oakes	58474	159	Class A
Oakes Community Hospital Pharmacy	314 S 8th Street	Oakes	58474	206	Class B + K
Oakes Drug, Inc.	422 Main Ave	Oakes	58474	217	Class A + K
First Care Health Center Pharmacy	115 Vivian Street	Park River	58270	202	Class B
Ye Olde Medicine Shoppe Inc	103 Harris Ave S Hwy 17	Park River	58270-4006	59	Class A + K
Pioneer Drug, Inc.	19 S Main Street	Parshall	58770-0517	79	Class A
Country Drugstore [The]	116 N Ave East	Richardton	58652	130	Class A
Richardton Memorial Hosptial & Health Cer	212 3rd Ave W	Richardton	58652-0908	204	Class B
White Drug #58 - Rolette	208 Main Street	Rolette	58366-0569	219	Class K
Presentation Medical Center Pharmacy	P O Box 759	Rolla	58367-0759	199	Class B + K
Rolla Drug Inc	P O Box 819	Rolla	58367-0819	120	Class A
Good Sam / Heart of America Medical Cent	800 S Main Ave	Rugby	58368-2198	200	Class B + K
White Drug #50	107 2nd Street SE	Rugby	58368	461	Class A
Selfridge Telepharmacy	Free Clinic	Selfridge	58568	649	Class K
Dakota Drug of Stanley	P O Box 460	Stanley	58784-0460	27	Class A
Mountrail Co Medical Center Pharmacy	P O Box 399	Stanley	58784-0399	178	Class B
Steele Drug, Inc	P O Box 498	Steele	58482-0498	119	Class A
Tioga Drug Inc.	P O Box 639	Tioga	58852-0639	125	Class A
Tioga Medical Center Pharmacy	810 N Welo	Tioga	58852-0159	203	Class B
Turtle Lake Com Mem Hospital Pharmacy	P O Box 280	Turtle Lake	58575-0280	205	Class B

Turtle Lake Rexall Drug, Inc.	P O Box 70	Turtle Lake	58575-0070	185	Class A
Soda & Things	116 Lincoln Ave	Underwood	58576	547	Class K
Central Avenue Pharmacy	323 N Central Ave	Valley City	58072-2915	164	Class A
Foss Drug of Valley City, Inc	234 Central Ave N	Valley City	58072	142	Class A
Mercy Hospital Pharmacy of	570 Chautauqua Blvd	Valley City	58072	174	Class B
White Drug #59 dba Valley Drug	239 2nd Ave NW	Valley City	58072	600	Class A
White Drug #60	148 S Central Ave	Valley City	-58072	656	Class A
Velva Drug Co	16 N Main Street	Velva	58790-0010	523	Class A
Corner Drug Store Inc.	522 Dakota Avenue	Wahpeton	58075	15	Class A
NDSCS Pharmacy Tech Program	800 N 6th	Wahpeton	58076	189	Class H
Southtown Econodrug Inc.	387 S 11th Street	Wahpeton	58075	152	Class A + K
Wahpeton Drug	508 Dakota Ave	Wahpeton	58075	54	Class A
Walhalla Prescription Shop	1102 Central Ave	Walhalla	58282-0428	88	Class A
Chase Drug Inc	703 Main Street	Washburn	58577-0400	160	Class A
Barrett Pharmacy	P O Box 783	Watford City	58854-0783	124	Class A
Larsen Service Drug, Inc.	244 N Main St	Watford City	58854-0550	163	Class A + K
McKenzie Co Mem Hospital Pharmacy	P O Box 548	Watford City	58854-0548	338	Class B
Health Center Pharmacy	1401 13th Ave E	West Fargo	58078	134	Class A
The Prescription Shop Inc	1210 Sheyenne Street	West Fargo	58078	98	Class A
White Drug #46	1100 13th Ave East	West Fargo	58078	373	Class A
Mercy Hospital Pharmacy	1301 15th Ave West	Williston	58801	176	Class B
ND Pharmacy, Inc.	20 E 26th Street	Williston	58801	39	Class A
Rx Plus, Inc.	300 W 11th St	Williston	58801	151	Class A
Service Drug Pharmacy	317 Main	Williston	58801	61	Class A
The Prescription Center	1508 2nd Ave West	Williston	58801	38	Class A
Western Dakota Pharmacy, Inc.	1102 Main	Williston	58801	51	Class A
Wishek Community Hospital Pharmacy	1007 4th Ave S- Box 647	Wishek	58495-0647	193	Class B
Wishek Drug	P O Box 217	Wishek	58495-0217	493	Class A + K

OPENING / CLOSING OF PHARMACIES

OPENED

NAME OF PHARMACY	CITY	R.Ph.-IN-CHARGE		Class
Phamacare Inc	Fargo	Heather Novak, PharmD	7/17/02	A
Beach Pharmacy	Beach	Jody Doe, R.Ph.	8/01/02	K
White Drug #58	Rolette	Kyle DeMontigny, PharmD	10/07/02	K
White Drug #57(Conversion)	Maddock	Kyle DeMontigny, PharmD	4/14/03	K
Larsen Service Drug	New Town	Larry Larsen, R.Ph.	4/15/03	K
Gwinner Pharmacy	Gwinner	Nathan Schlecht, R.Ph.	6/15/03	K
White Drug#62	Mohall	Terry Dick, R.Ph.	11/13/03	K
Enderlin Pharmacy	Enderlin	Walter Spiese, R.Ph.	7/01/04	K
New England Drug(Conversion)	New England	Jody Doe, R.Ph.	7/01/04	K
Wall's Express	Grand Forks	Dennis Johnson, R.Ph.	7/01/04	A
Dakota Precision	Bismarck	Rick Boehm, R.Ph.	8/23/04	A
Julie's Pharmacy	Lidgerwood	Julie Falk, R.Ph.	12/08/04	K
McClusky Rexall	McClusky	Mark Malzer, R.Ph.	4/07/05	K
Soda & Things	Underwood	Mark Malzer, R.Ph.	4/07/05	K
Prairie Pharmacy (Wal-Mart)	Fargo	Suzanne Dietrich, PharmD	5/12/05	A
Health Center Pharmacy	Center	David Just, R.Ph.	1/03/06	K
Arthur Drug	Arthur	Kathleen Nelson, RPh	1/06/06	K
Wall's Health Mart Pharmacy	Grand Forks	Dennis Johnson, R.Ph.	9/01/06	A
Prairie St John's Pharmacy	Fargo	Daniel Adams, PharmD	11/22/06	B

Pharmacies closed 2000

B & B Super Drug –	Williston -	Roger Kohlman, Pharmacist-In-Charge	A
Bennett Rexall Drug –	Bowman -	Lincoln Lutz, Pharmacist-In-Charge	A
City Drug Store –	Mohall –	Roberta & John Southam	A
Centennial Pharmacy –	Minot -	Kerry Hansen, Pharmacist-In-Charge	A
Medical Park Pharmacy-	Minot –	James Vachal, Pharmacist-In-Charge	A

Pharmacies closed 2000

Mayville Pharmacy	Mayville -	Marlan Fugleberg, Pharmacist-In-Charge		A
Precision Healthcare -	Fargo -	Anton Welder, Pharmacist-in-Charge		A
Linson Nursing Home –	Fargo -	Larry P. Linson, Pharmacist-In-Charge		D
Park River Rexall -	Park River –	Ken Schwandt, Pharmacist-In-Charge		A
2002 White Drug #101 –	Devil's Lake			A
Cando Drug and Gift –	Cando			A
Medical Arts Pharmacy -	Bismarck			A
2003 Manning pharmacy –	Minot –	James Manning, RPh.	January 31, 2003	A
2004 Mayville Pharmacy –	Mayville –	Marlan Fugleberg, R.Ph.	March 21, 2003	A
2005 Lidgerwood Drug -	Lidgerwood -	Greg McCullough, R.Ph.	5/30/04	A
Crosby Drug			6/30/05	A
2006 Alliance/Great Plains –	Bismarck –	Lance Sateren, R.Ph.	1/01/06	A
Wall's Express	Grand Forks	Dennis Johnson, R.Ph.	1/16/06	A
The Medicine Shoppe-	Grand Forks –	Brent Jackson, R.Ph.	6/30/06	A
Northwest Pharmacy- (combined with B & B Drug)	Minot –	Gene Neal, R.Ph.	7/15/06	A
Axtman Pamida -	Rugby –	Dale Axtman, R.Ph.	6/30/06	A
Pioneer Drug –	Parshall –	C Greg Hendrickson, RPh	8/30/06	A
Dockter's Rexall –	Oakes –	Dwight Dockter, R.Ph.	9/30/06	A
Mandan Drug –	Mandan –	Rusty Kruger, R.Ph.	12/22/06	A
McVille Drug	McVille	Nordis Pratt, R.Ph.	12/27/06	A

61-02-01-01 Permit Required. No person, partnership, association, or corporation shall conduct a pharmacy in North Dakota without first obtaining a permit to do so from the Board. A fee, set by the Board but not to exceed that prescribed by statute, shall be charged for each permit. Any applicable rule governing the practice of pharmacy shall apply to all permits under this section. Classes of Permits shall be as follows:

Class A - Permit to conduct an Out-Patient Pharmacy. (Retail)
Class B - Permit to conduct a Hospital Pharmacy.
Class C - Permit to conduct a Home Health Care Pharmacy.
Class D - Permit to conduct a Long-Term-Care Pharmacy. (Closed Door)
Class E - Permit to conduct a Nuclear Pharmacy.
Class F - Permit to conduct a Mail Order Pharmacy.
Class G - Permit to conduct an Out-of-State Pharmacy.
Class H - Permit to conduct a Governmental Agency Pharmacy.
Class I - Permit to conduct a Research Pharmacy.
Class J - Permit to conduct an Office Practice Pharmacy.
Class K - Permit to conduct a Telepharmacy

#1

NDHA

North Dakota Healthcare Association

Vision
The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission
The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

TESTIMONY FOR
HB 1299 PHARMACY OWNERSHIP
March 13, 2007

Madame Chairman, members of the committee:

I am Arnold Thomas, President of the North Dakota Healthcare Association. I am here in support of HB 1299.

When the pharmacy ownership law was enacted in the early 1960's, it required that every pharmacy from that day forth must have at least 51% ownership by a licensed pharmacist. The law grandfathered in existing pharmacies that did not meet that requirement. So, a commercial pharmacy owned by a hospital - prior to 1963 - was still allowed to operate.

In the nearly half-century since the ownership provisions were put in place, times have changed and situations have changed.

House Bill 1299 as originally proposed had a narrow focus. It was designed for maximizing patient access to the services of pharmacists. It does this by permitting hospitals to operate commercial pharmacies under certain conditions.

House action narrowed the original bill. Critical Access hospitals may purchase a local pharmacy and offer commercial pharmacy services. While the bill does increase the ownership option for some hospitals--which we support, its limited flexibility to the current ownership statues does not address our rationale for its introduction—maximizing patient access to the services of pharmacist.

Image the following:

Depending on where your Aunt Mary lives, she can visit her doctor, get a prescription, and take it right down to Main Street to get it filled. Your Aunt Sue, in the next town, might have different options. She might be able to get her prescription several days later by mail order – or she might have it filled by a pharmacy technician who is supervised electronically from afar. In some cases, she might even be offered the option of conversing electronically with a pharmacist. Think about your Aunt Sue. Should se be satisfied with these options or should she have the option to go down the street to the local hospital, where a pharmacist is employed, and visits with him personally about her prescriptions and medications? As amended, your Aunt Sue will have the option of accessing the services of a pharmacist, if the local pharmacy wishes to be sold to the local critical access hospital.

PO Box 7340 Bismarck, ND 58507-7340 Phone 701-224-9732 Fax 701-224-9529

Many of you are parents. You remember that earaches never come at convenient times. Think about a young farm family. Saturday evening, three year old Sally develops an ear infection. The family drives 20 miles to the nearest hospital. The attending physician prescribes an antibiotic. The local pharmacy is closed and whether it's calving season, weather, or just distance, that family won't be making the trip back in to town for several days. The hospital provides sufficient medicine until the family can access the services of a commercial pharmacy. Why should that family even have to think about a repeat trip to a pharmacy when they could get everything they needed at the hospital pharmacy?

Under the provisions of HB 1299 as amended, Sally's prescription must still be filled at another time with another trip to town, if the medicine supplied by hospital is not sufficient in quantity for her medical condition.

Let us take another scenario. Let us say Sally's family lives in one of North Dakota's larger cities. It's late – Sally's Mom has been working all day – She just spent a couple of hours with Sally at the hospital's walk-in clinic – Sally is miserable because her ears are hurting – Mom is tired and still has things to do at home and get ready for work the next day. When Mom finally gets Sally's prescription in her hand, she can't just go to a pharmacy right there in the building, she has to get in her car and drive to the next available commercial pharmacy-- take Sally out of the car and wait again while her prescription is filled. That young Mom, had she sought services on the clinics hospital campus could have had her prescription filled immediately after seeing the doctor. Because she saw her physician in a distant clinic from the hospital campus, she cannot have her daughter's prescription at the time her daughter's physician visit. She's been denied access, choice and convenience because of a half-century old law turf protection law.

The bill, as amended, provides some flexibility for increasing access to services of a pharmacist but under limited conditions. As amended, the bill is practical and sets up a framework for addressing the issues of access to the services of a pharmacist, cost to the public for this access and its regulation. However, it does not achieve its overall goal.

House Bill 1299 was not brought forward so that hospitals can operate pharmacies in competition with existing local pharmacies. Many already do. Instead, it was sponsored so that people – young and old – those who are sick and those who are trying to stay healthy or in some cases, stay alive - can get their prescriptions filled quickly and conveniently – by a knowledgeable pharmacist.

As a matter of principle we support the original provisions of the HB 1299. Should the original provisions not be acceptable at this time, we ask favorable consideration of the bill before you.

Madame Chair, during the engrossment of the bill, the study provision in the bill was required. During the engrossing process, the language was changed to where the study is a Legislative Council choice. We ask you to amend the bill to include its original study language. We think this study by the Legislative Council will produce a policy framework that enhances all North Dakotans access to the services of a registered pharmacist.

#2

Prepared by the

North Dakota Healthcare Association

March 12, 2007

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1299

Page 2, line 29, replace "consider studying" with "study"

Renumber accordingly

healthpolicyconsortium

Altru Health System | Medcenter One medcenterone.com | MeritCare | Trinity Health

North Dakota 2007 Legislative Session
Senate - Human Services Committee
Testimony on House Bill 1299
March 14, 2007

Madam Chairperson Lee and Members of the Senate Human Services Committee:

My name is Susan Doherty and I am the Executive Administrator of Health Policy Consortium (HPC) and I am here to strongly encourage you to consider amending House Bill 1299 to repeal the 51% ownership requirement currently in the North Dakota Century Code (NDCC 43-15-35).

The association I represent is made up of the four largest integrated health systems in the state including Altru Health System in Grand Forks, Medcenter One Health Systems in Bismarck, MeritCare Health System in Fargo, and Trinity Health System in Minot.

Within our combined membership, we have over 15,000 employees. We provide specialty and sub-specialty care including a substantial amount of pharmacy services in both the hospital and outpatient retail setting as well as a significant amount of primary care in the most rural of communities, such as New Town, Cavalier and Lisbon. The HPC provides over $40 million of uncompensated care in either the form of bad debt or charity care services each year on behalf of the patients we serve. This is reflective of the substantial amount of care provided to the more than 54,000 under- and uninsured North Dakotans. We often care for the most needy of North Dakotans and see these numbers and the complexity of the care rising each and every year.

There is a shared mission and a commitment within the HPC to improve the health and well being of individuals and communities within the state of North Dakota. Your policy decisions can and will have a profound impact on our ability to continue to meet our shared mission.

I would like to discuss this bill and the amendment to repeal the ownership provision in the context of the patient. This is truly about the need for access to pharmacy services at a time when the use of prescription drugs is even more important to the care plan for both acute and chronically ill patients.

In the past we have sought remedy through variance requests to the Board of Pharmacy as well as legislative relief in the 2003 and 2005 legislative sessions. Most attempts have been thwarted; some variances have been granted. This is frustrating and concerning.

I would like to outline a few issues for you to consider as **rationale for outright repeal** of this long-standing policy that may not be uniformly applied to communities and facilities across our state:

- ✓ There is **no data to substantiate the statement that repeal of this law will have a negative impact for consumers in North Dakota**. In fact, it may actually serve to expand pharmacy services at the point of care - locally - rather than through mail order, out-of-state (or even imported) pharmacy services thereby by-passing the opportunity for the patient to interact with a licensed pharmacist.

- ✓ Statutory repeal of the law now **prevents additional cobbling of legislative requests and administrative interpretation** and discretion regarding your intent for exemptions to the ownership provision.

- ✓ To my knowledge there are **no documented difference in patient care regardless of ownership of a pharmacy**. The licensed pharmacists practicing in the hospital and outpatient/retail setting are held to the same high standard that you would expect. Lest we not confuse the issue of quality patient care with ownership in this instance. The focus needs to remain on access to high quality services for all patients regardless of where they live and who happens to own the pharmacy.

- ✓ The **categorization of ownership for pharmacies is at best a moving target**. By my count we currently have *at least* four categories of ownership - not two - in the State of North Dakota:

    1. **Hospital-owned retail pharmacies** (North Dakota Supreme ruling in Medcenter One v. N.D. State Board of Pharmacy - April 1, 1997)
    2. **Grand-fathered retail pharmacies owned by non-pharmacists**
    3. **Retail pharmacies owned and operated by licensed pharmacist**
    4. **Retail pharmacies operating as a result of a variance, waiver or what might also be characterized as an exemption to state law.**

The continued limitation on ownership serves no articulated purpose beyond economic protectionism for a few individuals. The statute may well be nullified by exemptions, the grandfather clause, Supreme Court ruling already. Additionally, repeal of the ownership provision does not preclude the Board of Pharmacy oversight of licensed pharmacists. Rule making would likely be necessary and I do have available the Minnesota statutes governing the opening of a pharmacy and change of ownership of a licensed pharmacy. I do not see an ownership requirement.

Perhaps maintaining the study resolution included in the engrossed version of the bill in front of you today in concert with the ownership repeal will allow this body to explore other issues associated with access to pharmacy services in North Dakota.

I would like to underscore a message - Repeal of this ownership provision is sound public policy as it relates to patient care. How could more restrictive ownership provisions be good for what should be the focus of our discussion – patient need for pharmacy services. Stepping outside of the interests represented here today, it becomes obvious that patients expect and need pharmacy services regardless of ownership. This must be our focus.

Please consider these points as you deliberate the merits of HB 1299 and an amendment to repeal the 51% ownership requirement before you. Madam Chair and Members of the Committee – Thank you for the opportunity to speak with you today. I am available to respond to your questions or to provide additional information at your request.

March 13 2007

Senate Human Services Committee Hearing 1299

Chairman Lee, Vice Chairman Erbele, Senators Warner, Heckaman, Dever and Pomeroy:

My name is Joan Johnson and I have been a pharmacist in North Dakota for 28 years. I have worked both in independent community pharmacy and as a hospital pharmacist.

The best member of the healthcare team to manage medications is the pharmacist. Not only do pharmacists subscribe to this concept, so do those who regulate the delivery of pharmacy services in the form of state and local government agencies and entities that set accreditation standards for healthcare such as the Joint Commission on Accreditation of Healthcare Organizations. Regulations and standards are changing to require an expanded role for pharmacists. When physicians are hired or present at a hospital for a period of locum tenens coverage, they inquire about the availability of clinical pharmacist staff. An emerging practice for pharmacists is a dedicated position in the Emergency Department. Pharmacists are recognized for their roles in adminstration of hospital services by positions for Chief Pharmacy Officer becoming more commonplace, as pharmacy plays a large role in the delivery of medical care and the management of those costs. Pharmacists are needed more and more as first-line, face-to-face caregivers in healthcare. It is therefore beyond my comprehension, why in this state, and this state only, a bill even needs to be argued about to allow a hospital to offer outpatient services. I fully support allowing any duly-licensed, regulated, and often accredited and award-winning hospital in this state to operate community pharmacy services, but to limit patient access to pharmacy services in the rural setting in ND is just plain wrong and poor stewardship.

In the setting where there is only one pharmacy and a hospital in a town, that community pharmacist is likely the provider of pharmacy services at the hospital. If the pharmacist is ready to retire or if the pharmacy is no longer economically viable, it is foolish to limit the options that that hospital and community have to maintain pharmacist services. Most people focus on the community drugstore because it is more visible than the hospital pharmacist, but what will the hospital do for a pharmacist when that pharmacist leaves?

The hospital can't get by with mail-order pharmacy services because pharmacy is not just a product distribution activity. Why go to a Telepharmacy situation as first choice, when allowing the hospital to provide the pharmacist position for both inpatient and outpatient services would keep a pharmacist available, in person? Keeping the pharmacist in the town maintains another healthcare professional's presence in that community, it means another house lived in, another income or two to be spent locally, the hospital benefits from another professional individual with a Doctor of Pharmacy degree, six years of education, that should be a valuable resource for them in many aspects. Pharmacy practice is becoming more and more that of a practitioner that manages medical therapy–exactly what a small town with limited resources needs, as a team player with the physicians, nurse practitioners and nurses. Local hospitals are a big part of a small community, as healthcare providers and employers, and the local hospital, a member of that local community structure, should have the opportunity to offer this service, as an option on an equal basis at least to that of a telepharmacy hooked up to an out-of-state company. When the hospital and drugstore closed in my hometown, it took the town a step closer to becoming a non-viable community. A high percentage (and growing higher all the time) of individuals living in ND towns are elderly who require greater access to medical care. Many leave when there are no

medical services available, migrating to the larger towns, part of a downward spiral. Not having a pharmacist available makes it harder to attract physicians or nurses who were accustomed to having clinical pharmacy and information services available to them throughout their training.

Please pass this bill to increase opportunities for North Dakota. Help to get rid of outdated old laws that create the perception that our state is a land of limitations, not opportunities.

The Legislative Council Study needs to be done to allow you, our legislature, to gather information to assist you in making important decisions relating to the needs of our changing state, a new model to address the current issues related to the delivery of pharmacy services in terms of access and affordability of both pharmaceuticals and pharmacy benefits, improving and updating the regulation of and laws pertaining to pharmacy services and the ability to attract an adequate supply of qualified pharmacists. A review of the big picture of this important part of healthcare is warranted on behalf of the stakeholders in the study issues, the citizens of this state.

#5

BOARD OF PHARMACY
State of North Dakota

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Jamestown
William J. Grosz, Sc.D., R.Ph.
Wahpeton, Treasurer

TESTIMONY ON HOUSE BILL No. 1299
RELATING TO THE ISSUANCE OF PHARMACY PERMITS

SENATE HUMAN SERVICES COMMITTEE
10:00 AM – RED RIVER ROOM – WEDNESDAY- MARCH 14TH, 2007

Chairman Lee and members of the Senate Human Services Committee, for the record I am Howard C. Anderson Jr., R.Ph, Executive Director of the North Dakota State Board of Pharmacy. Thank you for the opportunity to speak with you today.

As most of you know, the Board of Pharmacy has been strong supporters of the current pharmacy law, which we refer to as "the pharmacy control law".

House Bill #1299 in it's first engrossment form, has provisions which the Board of Pharmacy believes will give it the flexibility to permit pharmacies in small rural communities, where the community pharmacy is going away and the hospital there wants to try to continue to operate that pharmacy.

We believe this can be done without jeopardizing the many good things which the pharmacy ownership law has provided for North Dakota. I have some additional testimony, which I am not going to go through, that gives some history and some rationale for the North Dakota Ownership Law in it's present form. Most of that information does not apply to this Bill at it currently exits.

Just a word about the study provisions included in the Bill, the Board of Pharmacy has no objections to a study, and certainly studying and gaining additional information about pharmacy and pharmacy regulations in North Dakota is something the Board supports.

We recently have contracted with the North Dakota Consensus Council to do some focus groups for the Board of Pharmacy, to determine if we are currently providing the kind of services the public in North Dakota expects from the Board of Pharmacy, and if in fact our pharmacies are providing the kind of services their patients expect. We hope to have the results of that study by sometime in April as the focus groups are currently underway. Those will be available should the legislative council decide to study this issue.

Thank you.

#6

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SENATE HUMAN SERVICES COMMITTEE
10:00 AM – RED RIVER ROOM – WEDNESDAY- MARCH 14TH, 2007

Chairman Lee and members of the Senate Human Services Committee, for the record I am Howard C. Anderson Jr., R.Ph, Executive Director of the North Dakota State Board of Pharmacy. Thank you for the opportunity to speak with you today.

The North Dakota State Board of Pharmacy strongly supports the current law, which we refer to as "the pharmacy control law".

The laws you and your predecessors have passed or sustained, have served North Dakota very well in the area of Pharmacy services. We have 25 pharmacies per 100,000 people in North Dakota which is way ahead of the 16 in the next closest state. **WHAT A RINGING ENDORSEMENT FOR NORTH DAKOTA'S PHARMACY OWNERSHIP LAW.** We have more competition, more access, more service to North Dakota patients then any other state. Our Pharmacists provide excellent service to the patients of North Dakota. Pharmacy dispensing fees continue to gradually decline, while the cost of the drugs themselves continue to escalate. We have lost a few pharmacies but we have also opened a few. Pharmacist Kathy Nelson, who owns the store in Casselton, received a permit to put a telepharmacy in Arthur North Dakota. In January she called to ask if she could run a telepharmacy with a full time pharmacist because she had gotten the contract with the local nursing home, and needed more pharmacist time to serve the patients. Of course, the answer was yes. Dennis Johnson, the president of the North Dakota Pharmacists association, is not here today, because he is trying to keep up at his store and the new pharmacy he put in a new clinic in Grand Forks.

Two years ago the North Dakota Senate defeated a similar bill, SB 2283, by a wide margin. Four years ago HB 1407 received just a few votes. A *Fargo Forum* Article before the 2005 session pointed out that "Medicare costs for prescription drugs in North Dakota are actually lower than almost all other states". In spite of the National advertising from some for a 4 dollar one month supply of generic drugs, per patient, per month, costs for prescription drugs are lower in North Dakota BECAUSE pharmacists here provide such a high level of service to their patients. Medications are taken appropriately, with proper counseling and patient information, and generics are dispensed at as high a rate as any place in the country. All this is due to the pharmacists of North Dakota operating under

the Laws & Rules, You, as our Legislature have created over the years. This is certainly *NOTHING* to be **ASHAMED** of.

Whenever you want good patient care, and personal attention for the customer, you have to have enough time and enough professionals to provide that care. North Dakota pharmacists have that ability, because of the environment you have created for us. We are the best in the country. PLEASE do not let that slip away.

It is **North Dakota** which is the leader in the country in providing Telepharmacy Services to rural areas, and we are working hard to extend telepharmacy to rural hospitals. This is because of what you have allowed. We know that demographics and reimbursement rates are making it more difficult for our pharmacists to maintain services to rural hospitals, and we are not opposed to a reasonable accommodation to allow some different scenarios, which might help that situation, while not jeopardizing the good things we have in North Dakota.

Allow me to review the History of this law for you. NDCC 43-15-35 was passed in 1963 by the North Dakota Legislature with the intention of keeping the professional pharmacist with his/her ethical standards, in control of pharmacies. The Oath of the Professional Pharmacist to keep concern for their patients uppermost in their professional practice contributes significantly to protection of the public's health, welfare and safety.

In 1963 when the law was passed, no one had ever envisioned hospitals would be in the out-patient pharmacy business. Probably, at that time, no one envisioned that they would employ most of the physicians either.

There have been attempts to legislatively repeal NDCC 43-15-35 in 1975, 1987, 1993, 2003, and 2005 and court challenges in 1968, 1972 and 1982. In all cases, these attempts were defeated by large margins. We believe that every Governor since 1963 has supported the law.

In 1972, a decision by the North Dakota State Board of Pharmacy to deny a pharmacy license to Snyder's Drug Stores was appealed to the North Dakota District Court and the North Dakota Supreme Court. These courts relied on a 1928 US Supreme Court Decision called *Liggett v. Baldridge* to say the law was unconstitutional. The North Dakota State Board of Pharmacy appealed to the United States Supreme Court and in the case argued by Bismarck Attorney A. William Lucas, the US Supreme Court, by a 9 to 0 opinion reversed the 1928 *Liggett v. Baldridge* decision and upheld the Constitutionality of the North Dakota Law. On remand the North Dakota Supreme Court agreed. Attorney Lucas stated that he believes that this law has been one of the most thoroughly constitutionally and legislatively tested statutes in the North Dakota Century Code.

In the decision, written by Justice William O. Douglas, he stated very clearly, "*those who control the purse strings control the policy*". This has been the basic tenet from the beginning in the North Dakota State Board of Pharmacy's interpretation and application of this law.

Let me explain grandfathering. In 1963, a provision was made to allow pharmacies currently in business to stay in business as long as the ownership of those pharmacies did not change.

Until 1996 the Board of Pharmacy interpreted that to mean retail pharmacies. In 1996, the North Dakota Supreme Court said that it looked to them like hospitals, which had pharmacy permits in 1963, could do at their licensed locations whatever they wanted to with their pharmacy permit. Even though legislators in 1963 did not envision hospitals in the out-patient business, many of them who continue to hold their pharmacy permit are in the out-patient pharmacy business at their hospital's permitted location as grandfathered permit holders.

There are currently nine *grandfathered* hospital pharmacies in North Dakota out of the total of forty-seven licensed hospitals in the state. This Bill would have allowed all forty-seven Hospitals to own Pharmacies at any location they wish to choose, before being amended in the House.

Within the hospital where the hospital pharmacy is serving their in-patients, there are procedures which link the hospital pharmacist with the Pharmacy and Therapeutics Committee through the Medical Staff to the Board of Directors of the hospital. This allows all policies and procedures of the hospital/healthcare institution to be vetted through these several levels of control. Once we get outside the hospital/healthcare institution in a clinic setting or another location, these requirements do not apply. Simply, a non-pharmacist administrator may be directing the pharmacy staff and this is what NDCC 43-15-35 intended to prevent.

The Supreme Court accepted your reasons for our Law in 1973. Today we see workplace issues and medication errors headlined in the national pharmacy press. We see pharmacists in some pharmacies that have had to form a union in order to insist that they be allowed a bathroom, lunch or work break during their shifts. This does not happen in North Dakota. The environment you and your predecessors in the Legislature put in place has served North Dakota consumers well.

In North Dakota bean counters do not determine how many prescriptions must be filled before there is an additional pharmacist or pharmacy technician to help. Pharmacists make those decisions.

The ownership law is the best opportunity for pharmacists to be masters of their own destiny in the patient's best interest. The ownership law insures that pharmacists who have pledged their oath to uphold healthcare standards and professional ethics determine policy.

North Dakota can serve as a light for the rest of the county. We have the best level of pharmacy services in practice in North Dakota, compared to ANY state.

Remember, *"those who control the purse strings control the policy"*

We hope you agree and will keep it that way.

Thank you.

#7

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Chairman Price- House Human Services Committee
Answers to questions concerning HB 1299

The Committee asked for clarification on particular communities where we were experiences trouble providing hospital pharmacy services.

We currently have all of the rural North Dakota Hospitals covered by consultant pharmacists. However, in McVille, we recently closed the community pharmacy. The hospital has been operating with a consultant pharmacist, Jerome Schmidt out of Valley City for several years. Currently, the medications for the hospital patients and the community pharmacy prescriptions are being provided by Wade Bilden out of his pharmacy in Northwood. Whether the hospital in McVille would be capable of keeping this community pharmacy open and employing a hospital pharmacist is a possibility, though the business model would be questionable.

In Langdon, the community pharmacist has asked that he not be the hospital pharmacist any longer, and we do not have a pending replacement for him. At the present time, the hospital is looking for an alternative.

In Ashley, we recently converted the community pharmacy to a Telepharmacy. Dallas and Karen Lang, who had the pharmacy in Ashley wanted to discontinue operations there, though they continue to operate Linton Drug. Karen Lang is currently the hospital pharmacist and continues in that responsibility even though they will no longer be operating the community pharmacy after January 27th, 2007.

The questions arose as to what happens when a patient comes in to an emergency room at night or on a weekend when community pharmacies are not available, or when the out-patient pharmacy is not open. I believe that almost universally these prescriptions are dispensed out of the emergency room by a practitioner from a prepackaged supply that was prepared either by the hospital pharmacy or in many of our communities, by their consultant pharmacist. Even in most of our hospitals with 24-hour pharmacy services, they do not open the out-patient pharmacy to dispense the medication to the patient. The price for the medication is either added to the emergency room charge, or sometimes it may be billed by the out-patient pharmacy or by the community retail pharmacy the following day, depending upon who provided the prepackaged medication for the emergency room. This scenario varies somewhat from community to community based on the arrangements they have made to care for their patients in these after hour situations.

Sincerely,
Howard C. Anderson, Jr, R.Ph.

	ND PHARMACISTS IN HOSPITALS	1/15/2007							
	COMPANY	CITY	STAT	ZIP	PHARM_LIC	IN_CHARG	IN_CHARG	# of RPhs	Hosptl/Consult
	Ashley Medical Center Pharmacy	Ashley	ND	58413-0450	Class B	Karen	Lang	1	Consultant
	St Alexius Med Ct Pharmacy	Bismarck	ND	58506-5510	Class B + A	Keith	Horner	27	Hospital
	Medcenter One Hospital Pharmacy	Bismarck	ND	58506-5525	Class B + A	Thomas	Simmer	20	Hospital
	St Andrew's Hospital Pharmacy	Bottineau	ND	58318	Class B	Amy	Gullett	3	Consultant
	Southwest Healthcare Services Pharmacy	Bowman	ND	58623	Class B	Valerie	Kunze	1	Hospital
	Towner Co Medical Center Pharmacy	Cando	ND	58324-0688	Class B	Ruth Ann	Held	1	Hospital
	Carrington Health Center Pharmacy	Carrington	ND	58421-0461	Class B	Cynthia	Herk	1	Hospital
	Pembina Co Memorial Hospital Pharmacy	Cavalier	ND	58220-0380	Class B	Kenneth	Schwandt	1	Consultant
	Cooperstown Medical Center Pharmacy	Cooperstown	ND	58425-7101	Class B	Leon	Paczkowsk	1	Consultant
	St Lukes Hospital Pharmacy	Crosby	ND	58730-0050	Class B	Irven	Jacobson	1	Consultant
	Mercy Hospital Pharmacy	Devils Lake	ND	58301	Class B	Deborah	Kvande	1	Hospital
	St Joseph's Hospital & Health Center Pharmacy	Dickinson	ND	58601	Class B	Jerome	Wahl	5	Hospital
	Jacobson Memorial Hospital Pharmacy	Elgin	ND	58533-0367	Class B	Charles	Oien	1	Consultant
	MeritCare Hospital Pharmacy	Fargo	ND	58122	Class B + A	Robert	Biberdorf	33	Hospital
	SCCI Hospital - Fargo	Fargo	ND	58103	Class B	Joel	Aukes	5	Hospital
	Innovis Health Pharmacy	Fargo	ND	58104	Class B	Michael	Scheer	16	Hospital
	MeritCare Hospital Pharmacy-S University	Fargo	ND	58103	Class B	Gayle	Ziegler	7	Hospital
	Garrison Memorial Hospital Pharmacy	Garrison	ND	58540	Class B	Kim	Essler	1	Consultant
	Christian Unity Hospital Pharmacy	Grafton	ND	58237	Class B	Kimball	Lutovsky	1	Consultant
	Altru Health System Pharmacy	Grand Forks	ND	58202	Class B	Jeffrey	Zak	23	Hospital
	St Aloisius Hospital Pharmacy	Harvey	ND	58341	Class B	Toni	Bromley	1	Hospital
	Sakakawea Medical Center Pharmacy	Hazen	ND	58545	Class B	Michael	Chase	1	Consultant
	West River Regional Med Ctr Pharmacy	Hettinger	ND	58639	Class B	Susan	Hallen	2	Hospital
	Hillsboro Medical Center Pharmacy	Hillsboro	ND	58045-0609	Class B	Carol	Christiansc	1	Hospital
	Jamestown Hospital Pharmacy	Jamestown	ND	58401	Class B	Brian	Ament	4	Hospital
	ND State Hospital Pharmacy	Jamestown	ND	58401	Class B	Joan	Slusser	3	Hospital
	Kenmare Com Hospital Pharmacy	Kenmare	ND	58746	Class B	Kim	Essler	1	Consultant

	Cavalier County Memoral Hospital Pharmacy	Langdon	ND	58249	Class B	Lyle	Lutman	1	Consultant
	Linton Hospital Pharmacy	Linton	ND	58552-0700	Class B	Dallas	Lang	1	Consultant
	Lisbon Area Health Services Pharmacy	Lisbon	ND	58054-0353	Class B	Jill	McRitchie	1	Consultant
	SCCI Central Dakotas Hosp Pharm	Mandan	ND	58554	Class B	Joan	Galbraith	9	Hospital
	Union Hospital Pharmacy	Mayville	ND	58257	Class B	Patricia	Ogburn	1	Hospital
	Nelson County Health Systems Pharmacy	McVille	ND	58254-0367	Class B	Jerome	Schmidt	1	Consultant
	Trinity Hospital Pharmacy	Minot	ND	58702-5020	Class B	Douglas	Gietzen	13	Hospital
	Northwood Deaconess Health Ctr Pharmacy	Northwood	ND	58267	Class B	Wade	Bilden	1	Consultant
	Oakes Community Hospital Pharmacy	Oakes	ND	58474	Class B	Tara	Schmitz	1	Hospital
	First Care Health Center Pharmacy	Park River	ND	58270	Class B	Laurelyn	Larson	1	Consultant
	Richardton Memorial Hosptial & Health Center Inc	Richardton	ND	58652-0908	Class B	Doreen	Studsrud	1	Consultant
	Presentation Medical Center Pharmacy	Rolla	ND	58367-0759	Class B	Pamela	Kaleva	1	Hospital
	Good Sam / Heart of America Medical Center	Rugby	ND	58368-2198	Class B	John	Skwiera	1	Hospital
	Mountrail Co Medical Center Pharmacy	Stanley	ND	58784-0399	Class B	Brent	Rodenhize	1	Consultant
	Tioga Medical Center Pharmacy	Tioga	ND	58852-0159	Class B	Timothy	Joyce	1	Consultant
	Turtle Lake Com Mem Hospital Pharmacy	Turtle Lake	ND	58575-0280	Class B	Mark	Malzer	1	Consultant
	Mercy Hospital Pharmacy of	Valley City	ND	58072	Class B	Amy	Noeske	2	Hospital
	McKenzie Co Mem Hospital Pharmacy	Watford City	ND	58854-7310	Class B	Larry	Larsen	1	Consultant
	Mercy Hospital Pharmacy	Williston	ND	58801	Class B	Mark	Ceglowski	5	Hospital
	Wishek Community Hospital Pharmacy	Wishek	ND	58495-0647	Class B	Carla	Aipperspac	1	Consultant
	TOTAL= 48								