

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2298

Introduced by

Senators Kilzer, Carlisle

Representatives Hawken, Karls

1 A BILL for an Act to amend and reenact section 65-05-08.3 of the North Dakota Century Code,
2 relating to workers' compensation consideration of treating doctor's opinions; and to provide for
3 application.

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

5 **SECTION 1. AMENDMENT.** Section 65-05-08.3 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **65-05-08.3. Treating doctor's opinion.**

- 8 1. ~~If the organization does not give~~A presumption may not be established in favor of an
9 injured employee's treating doctor's opinion~~-controlling weight, the organization shall~~
10 ~~establish that the treating doctor's opinion is not well-supported by medically-~~
11 ~~acceptable clinical and laboratory diagnostic techniques or is inconsistent with the-~~
12 ~~other substantial evidence in the injured employee's record based on one or more of.~~
13 The organization shall resolve conflicting medical opinions and in doing so the
14 organization may consider the following factors:
15 a. The length of the treatment relationship and the frequency of examinations;
16 b. The nature and extent of the treatment relationship;
17 c. The amount of relevant evidence in support of the opinion;
18 d. How consistent the opinion is with the record as a whole;
19 e. Appearance of bias;
20 f. Whether the doctor specializes in the medical issues related to the opinion; and
21 g. Other relevant factors.
22 2. ~~At an administrative hearing, the organization's determination under subsection 1 is~~
23 ~~subject to de novo review by the hearing officer.~~

1 | ~~3.~~ This section does not apply to managed care programs under section 65-02-20. For
2 | purposes of this section, the organization shall determine whether a doctor is an
3 | injured employee's treating doctor.

4 | **SECTION 2. APPLICATION.** This Act applies to administrative hearings conducted on and
5 | after the effective date of this Act.