

**House Human Services Committee
Representative Matt Ruby, Chair
March 12, 2025
SB 2297**

Chairman Ruby and members of the House Human Services Committee. My name is Angie Sersha and I am the VP General Counsel for Sanford Bismarck.

I am here today speaking in support of SB 2297.

In my role, I have seen a rise in a patient population we refer to as “unrepresented patients.” Unrepresented patients are those who have no advanced care directive and have no one in the currently established statutory hierarchy to serve as a substitution decision maker in their time of need where they are lacking capacity to decide for themselves. The nature of the patient’s incapacity can be based on either a physical or mental condition and without an agent or surrogate decision maker, they fall into a legal gap and as a result are put at a disadvantage to the rest of society.

A person with capacity, or an incapacitated person with a substitute decision-maker, has the legal right to consent to changes in treatment that are in that patient’s best interest. An unrepresented patient has nobody to make these decisions for them, and a healthcare provider cannot provide non-emergent treatment without the informed consent of a decision-maker. Thus, the unrepresented patient is deprived of non-emergent treatment that might be in his or her best interest, but for which there is nobody available to consent.

The proposed changes to N.D.C.C. § 23-12-13 would provide an option for consent to level the playing field. In the proposed legislation, an interdisciplinary team of healthcare professionals (not directly involved in the patient’s care) would be empowered to consider and consent to treatment in the patient’s best interest. This option allows the unrepresented patient to enjoy the same right to needed treatment that the rest of society enjoys, without having to resort to more drastic and permanent remedies, such as guardianship. To be sure, our case management teams work tirelessly to find suitable decision-makers, and proposed subsection (k)(2) reflects that this work will continue at all times. This is a last resort remedy, and our care teams will gladly step aside if an individual already listed in the statutory hierarchy can be found to make decisions.

I urge a do pass on SB 2297. Thank you for your consideration.

Angie Sersha
VP General Counsel
Sanford Bismarck