

**Testimony**  
**Senate Bill No. 2291**  
**Senate Judiciary Committee**  
**Senator Larson, Chairman**  
January 29, 2025

Chairman Larson, and members of the Senate Judiciary Committee, I am Jonathan Alm, Chief Legal Officer with the Department of Health and Human Services (Department). I appear before you in support of Senate Bill No. 2291.

I appear before you to specifically talk about Sections 1 and 2 of this Bill.

**Section 1:**

The proposed changes in Section 1 of this Bill amend subsection 1 of 23-12-13 of the North Dakota Century Code regarding who can provide informed consent to health care for an incapacitated individual. The changes on page 1, lines 20 and 21 will allow a psychiatrist or psychologist to determine if an individual is incapacitated. This change would be consistent with the State's civil commitment, fitness to proceed, and lack of criminal responsibility statutes that allows for a physician, psychiatrist, or psychologist to determine if someone is incapacitated or lacks capacity. This change also updates the citation of incapacitated person to section 30-1-01-06, which is the same definition used in section 30.1-26-01.

**Section 2:**

The proposed changes in Section 2 of this Bill amends subsection 1 section 25-03.1-18.1 of the North Dakota Century Code to add language that allows a Tier 1b mental health professional to request authorization

from a court to treat an individual if the individual was voluntarily admitted to a public treatment facility under the civil commitment law. This will allow a public treatment facility to provide the necessary treatment to a voluntarily admitted individual when that individual or guardian does not have capacity to consent to the treatment.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.