

HOUSE BILL NO. 1286

Introduced by

Representatives Amerman, Boe

Senator Heitkamp

1 A BILL for an Act to create and enact a new section to chapter 23-01 of the North Dakota
2 Century Code, relating to an independent audit of workforce safety and insurance independent
3 medical examinations; to amend and reenact section 65-05-32 of the North Dakota Century
4 Code, relating to confidentiality of records of workforce safety and insurance; and to provide a
5 penalty.

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

7 **SECTION 1.** A new section to chapter 23-01 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Audits of workforce safety and insurance independent medical examinations -**
10 **Biennial report - Penalty.**

- 11 1. The state department of health shall establish and implement a program to conduct
12 random audits of independent medical examinations performed for workforce
13 safety and insurance under section 65-05-28. The department may select a
14 private third party to perform all or specified parts of the audits. An audit must:
- 15 a. Determine whether workforce safety and insurance procedure is being
16 followed in conducting independent medical examinations and, if necessary,
17 recommend how the procedure could be improved;
 - 18 b. Determine whether appropriate medical practice standards and medical billing
19 standards are being met in reviewing claimants' diagnoses, prognoses,
20 treatments, and fees and, if necessary, recommend how the review system
21 could be improved; and
 - 22 c. Determine workforce safety and insurance claimant satisfaction and doctor
23 satisfaction in the independent medical examination system and, if necessary,
24 recommend how to better meet the expectations of claimants and doctors.

- 1 2. The department shall complete a biennial report of audits performed during the
2 biennium and shall present the report to the legislative council's legislative audit
3 and fiscal review committee in conjunction with the independent performance
4 evaluation received by the legislative audit and fiscal review committee under
5 section 65-02-30. The biennial report must include a summary of the audits
6 performed during the biennium and recommendations but may not identify specific
7 workforce safety and insurance claimants, doctors, or health care providers or
8 other confidential information. Information compiled and analysis performed
9 pursuant to an audit under this section which relate to the audit, including patterns
10 of treatment, cost, or determinations made by doctors are confidential and are not
11 open to public inspection to the extent the information and analysis identify a
12 specific workforce safety and insurance claimant, doctor, or health care providers.
13 3. For purposes of complying with this section, employees of the state department of
14 health and any third party selected by the department to conduct all or a portion of
15 the audits may access an injured worker's claim file and records for which an
16 independent medical examination is being audited in the same manner as an
17 employee of workforce safety and insurance. An employee of the state department
18 of health and any third party selected by the department to conduct all or a portion
19 of the audits who access an injured employee's claim file under this section are
20 subject to the same confidentiality provisions and information disclosure provisions
21 under section 65-05-32 as employees of workforce safety and insurance and are
22 considered public servants for purposes of section 12.1-13-01.

23 **SECTION 2. AMENDMENT.** Section 65-05-32 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **65-05-32. Privacy of records and hearings - Penalty.** Information contained in the
26 claim files and records of injured employees is confidential and is not open to public inspection,
27 other than to organization employees or agents in the performance of their official duties.

28 Providing further that:

- 29 1. Representatives of a claimant, whether an individual or an organization, may
30 review a claim file or receive specific information from the file upon the
31 presentation of the signed authorization of the claimant. However, reserve

- 1 information may not be made available to the claimant or the claimant's
2 representatives. Availability of this information to employers is subject to the sole
3 discretion of the organization.
- 4 2. Employers or their duly authorized representatives who are required to have
5 access to an injured ~~worker's~~ employee's claim file for the performance of their
6 duties may review and have access to any files of their own injured ~~workers~~
7 employees. An employer or an employer's duly authorized representative who
8 willfully communicates information contained in an employee's claim file to any
9 person who does not need the information in the performance of that person's
10 duties is guilty of a class B misdemeanor.
- 11 3. Physicians or health care providers treating or examining ~~workers~~ employees
12 claiming benefits under this title, or physicians giving medical advice to the
13 organization regarding any claim may, at the discretion of the organization, inspect
14 the claim files and records of injured workers.
- 15 4. Other persons may have access to and make inspections of the files, if such
16 persons are rendering assistance to the organization at any stage of the
17 proceedings on any matter pertaining to the administration of this title or such
18 persons are conducting audits under section 1 of this Act.
- 19 5. The claimant's name; date of birth; injury date; employer name; type of injury;
20 whether the claim is accepted, denied, or pending; and whether the claim is in
21 active or inactive pay status will be available to the public. This information may
22 not be released in aggregate form, except to those persons contracting with the
23 organization for exchange of information pertaining to the administration of this title
24 or except upon written authorization by the claimant for a specified purpose.
- 25 6. At the request of a claimant, the organization may close the medical portion of a
26 hearing to the public.
- 27 7. The organization may release the social security number of an individual claiming
28 entitlement to benefits under this title to health care providers or health care
29 facilities for the purpose of adjudicating a claim for benefits.