

Dear Members of the House,

Thank you for this opportunity to advocate on behalf of my patients, my colleagues and the citizens of our great state of North Dakota. It is my privilege to testify in support of 2023 HB 1281.

During the early years of HIV epidemic, public fear of HIV combined with now withdrawn requirements of the federal aid programs led many states to pass laws that established criminal penalties for people living with HIV. These were specifically directed at various actions or non-actions by people living with HIV like failing to disclose infection status, for exposing others to the disease, and for transmitting the disease intentionally or unintentionally.

Our understanding of HIV infection and the tools available to treat and prevent the same have improved significantly since those early times of the epidemic to the point where HIV is now a chronic disease that is easily managed by medications that are either administered as a single pill taken by mouth on a daily basis or an injectable medication taken once a month or every other month.

The progress has been so phenomenal over the last 3 decades that eliminating HIV through various strategies is now an achievable goal within our lifetimes.

This progress has been made possible due to multiple specific developments:

1. Treatment as prevention (TasP): We now have enough evidence to say that a person living with HIV and on treatment with an undetectable viral load cannot transmit HIV to another person, a phenomenon known popularly as U = U (Undetectable = Untransmissible). This strategy is endorsed by all the organizations working towards advancing HIV care including CDC, UNAIDS, WHO and PEPFAR.
2. Availability of pre and post exposure prophylaxis known as PrEP and PEP respectively. This strategy involves taking very well tolerated and effective medications prior to or after exposure to HIV. Multiple scientific studies including randomized controlled trials have demonstrated safety and efficacy of these medications.
3. Availability of other methods to reduce the risk of HIV transmission including use of condoms and male circumcision.
4. Improved understanding of which bodily fluids are able to transmit or not transmit HIV and which kind of exposure carries higher risk of transmission. For example, some state laws criminalize biting or spitting by HIV-positive persons, even though saliva, unless visibly bloody, is not considered to be a transmission risk.

Currently, most states continue to have laws which criminalize behavior of HIV positive people. Fortunately, many of these states have started revisiting these laws based on our current understating of HIV infection transmission. It is important that we urgently reconsider our ND laws that criminalize behavior of people living with HIV. These outdated laws are based on the belief that transmission of the disease is a death sentence rather than an easily managed long term disease in this day and age. Therefore, many of these laws are extraordinarily harsh in nature and carry penalties that are usually reserved for most serious of crimes. Some of the potential collateral consequences of these laws, regardless of whether HIV transmission has occurred or not, are:

1. Placement of an individual on sex offender registry even if the sexual relationship was consensual.
2. Denial of retirement pay for military service.
3. Denial of commission for military service and inability to reside in public housing.
4. Temporary or permanent suspension of a license by state professional licensing board.
5. Denial of a firearm license.
6. Denial of a liquor license.
7. Denial of student loans and scholarship.

It is now time to make sure that our policies towards HIV are consistent with that of other sexually transmitted or communicable diseases, such as Tuberculosis, Hepatitis B, Hepatitis C, Hepatitis A, Chlamydia, Gonorrhea, or Syphilis.

There remains a role for legal redress when an individual seeks to defraud another individual concerning their health status. However, pathways for such legal redress already exist in most states. Redundant and outdated policies focused on one disease promote stigma and prejudice. This in turn reduces access to testing as patients are unwilling to get tested if they know that they will be subjected to criminal laws.

It is time to ensure that our policies reflect our current understanding of any disease process and are created with the intent of spreading awareness and reducing barriers to care whether it is preventive or treatment oriented in nature. Thank you for your time and attention.