



**2023 Senate Bill no. 2188**  
**Senate Judiciary Committee**  
**Senator Diane Larson, Chairman**  
**January 17, 2023**

Chairman Larson and members of the Senate Judiciary Committee, I am Melissa Hauer, General Counsel/Vice President, of the North Dakota Hospital Association (NDHA). I testify in opposition to Senate Bill 2188. We ask that you give the bill a **Do Not Pass** recommendation.

It is a long-established principle that before treating a patient a health care provider must obtain the consent of that patient. What is a simple rule becomes less so when treating minors. The idea that parents should have the right and responsibility to make health care decisions for their children seems eminently reasonable. In most states, age 18 is the age of majority and so, before treating a patient under that age, consent must be obtained from the patient's parent or legal guardian. This seems straightforward but some provisions of the bill would change longstanding North Dakota law regarding minors' ability to consent to their own treatment in certain circumstances and other provisions of the bill are simply unworkable.

First, the bill would require prior, written consent of a parent before any health care provider could prescribe drugs or provide medical services or procedures to a minor. We feel this requirement is unworkable. For example, what if a minor needs emergency surgery and the parent cannot be reached in time? Currently, hospitals are required to attempt to contact a parent in that situation but would not delay life-saving treatment in the meantime. The bill has no exception for emergencies. The bill would also mandate prior, written consent for routine services that are performed every day without such paperwork, such as when a health care provider takes a child's temperature, looks in her ears, and listens to her heart as part of a routine well check visit or when seeing a child for

a minor illness. Do we really want every single health care service, treatment and prescription for a minor to require a parent's written consent?

There is also a long history of the legislature acknowledging that, in certain circumstances, it may be more important for a young person to have access to confidential medical services than it is to require that parents be informed of the situation. For example, current North Dakota law gives minors the right to consent to treatment in a few specific situations:

1. N.D.C.C. § 14-10-17, which provides that any person 14 years or older may receive examination, care, or treatment for sexually transmitted disease, alcoholism, or drug abuse without permission, authority, or consent of a parent or guardian.
2. N.D.C.C. § 14-10-17.1, which provides that a minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. It also provides that a health care provider may provide emergency medical care or forensic services to a minor who is a victim of sexual assault without the consent of the minor's parent or guardian. Reasonable steps must be taken to notify the minor's parent or guardian of the care provided.
3. N.D.C.C. § 14-10-18.1, which provides that an individual who is at least 16 years of age may donate blood on a voluntary and noncompensatory basis without obtaining the consent of the individual's parent or guardian.
4. N.D.C.C. § 14-10-19, which provides limited prenatal care, pregnancy testing, and pain management related to pregnancy for a minor without a parent's consent. A health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the health care provider is unable to contact the minor's parent or guardian. The law requires that if a minor requests confidential services, the health care provider shall encourage the minor to involve her parents or guardian. The health care provider may inform the parent or guardian of any pregnancy care services in certain circumstances.

5. N.D.C.C. § 14-10-20, which just passed last session, allows an unaccompanied homeless minor to consent to health care (other than an abortion).

If SB 2188 passes, would it override these longstanding laws allowing minors to consent to their own health care in these limited circumstances? This bill is simply unworkable in the burden it would place on health care providers to secure prior written consent to all health care services, even routine examinations or prescriptions. In emergency circumstances this bill's requirements would be dangerous and impede life-saving care. And while health care providers agree that parental involvement is desirable and ideally parents and teenagers would work together to make well thought out health care decisions, the reality is that if we take away access to confidential health care in certain situations teenagers simply will stop seeking the care they need.

For these reasons, we ask that you give the bill a **Do Not Pass** recommendation.

I would be happy to respond to any questions you may have. Thank you.

Respectfully Submitted,

Melissa Hauer, General Counsel/Vice President  
North Dakota Hospital Association