

Gerald Zarlengo, MD
TESTIMONY ON HB25-1349

Chairman, Members of the Committee, my name is Dr. Gerald Zarlengo, I am an obstetrician and the Chairman and CEO of Copic. Thank you for allowing me a chance to testify in opposition to this bill.

I want to begin by sharing a little bit about my personal story and interest in this bill.

- Physician Father practicing in the 1980s when large verdicts were driving carriers to leave Colorado, abandoning providers.
- Personal story of getting insurance coming into medicine.

In Colorado, like in North Dakota, the passage of bipartisan legislation resulted in the stabilization of the cost of liability insurance.

As the Chairman and CEO of Copic, I am the 4th physician to serve in this role. In their wisdom, Copic's founders made it a prerequisite to have a physician-CEO so that the company would maintain a strong connection to healthcare and not be driven by shareholders or profit motives, but instead, be guided by our mission of "improving medicine in the communities we serve." To best serve this mission, Copic engages in the legislative process to support and inform legislators regarding the impact of the delivery of safe, quality care in all of our markets. For this reason, I am here in opposition of House Bill 1349. This bill would upend a critical law that has served North Dakota well by striking a careful balance of ensuring its citizens have access to health care while also ensuring a reasonable restitution when an adverse event occurs.

Copic is the number one medical professional liability insurance carrier in North Dakota, insuring hundreds of the physicians and dozens of hospitals. Our fiduciary responsibility is to them. We are annually audited by actuaries and regulated by the North Dakota Insurance Department. Our historic stability and therefore the stable rates we are able to provide for our insureds can be credited to these reasonable state reforms that strike a balance between the public interest in access to health care and the right for compensation.

Nobody wants to see adverse outcomes and the significant impact they have on patients and their families. To best serve our physician and hospital providers, we use our claims experience to prevent errors from ever happening. Our patient safety and risk management department consists of nurses and physicians who lead proactive educational efforts that include nationally recognized patient safety programs. Copic's ability to concentrate on prevention versus just defending when an adverse event occurs is credited to tort reforms that ensure accountability, but do not strike fear in the hearts of physicians. This is important—this balance promotes the act of talking to their patients and allowing themselves to be open to learn and improve versus shutting down when things do not go as planned.

North Dakota's tort reforms, among other things, establishes a cap of \$500,000 non-economic damages. There are two types of damages. Non-economic damages are the damages for the immeasurable part of a medical mishap: mental anguish, emotional distress, inconvenience, and pain and suffering. Economic damages, including medical bills, lost income, domestic services, physical and mental therapy are not capped.

You will hear arguments that this is not enough. I would argue that there is no amount of money that is the right amount, but public policy must often determine how to balance the public interest in access to health care and the right for compensation. A cap establishes an equitable solution for citizens by creating a maximum amount that any one citizen can receive for damages that are subjective and immeasurable. Most all states have tort reforms of some type and the majority of states in the country have caps on non-economic damages. North Dakota's cap of \$500,000 is in line with the median of capped states and has helped to keep premiums stable and affordable. This point has helped to rank North Dakota as one of the best states to practice medicine by Medscape in 2024.

If House Bill 1349 passes, North Dakota would have the highest non-economic damage cap in the country, cause the cost of medical malpractice premiums to increase dramatically, and hurt the retention and recruitment of physicians and hospitals in the state. For some physicians in high-paying specialties, the premium increase may be a relatively minor problem. However, for those in family practice providing obstetrics, emergency medicine, and neurology, it presents a much bigger impact. Damage caps also allow physicians and hospitals to plan accordingly without having to limit services such as obstetrics from their family practice, alter their patient mix by limited Medicaid or Medicare patients, or shutter their practice all together for financial reasons.

Help preserve North Dakota's reforms that are working for patients and its medical providers.

Please vote no on HB 1349. Thank you.