

**Testimony on Liability Limits
for Health Care Malpractice Actions or Claims
House Judiciary Committee
February 3, 2025
House Bill 1349**

Chairman Klemin and Members of the House Judiciary Committee, my name is Nikki Wegner, and I serve as the President of the North Dakota Long Term Care Association for 182 assisted living, basic care, and skilled nursing facilities. I appreciate the opportunity to share my concerns regarding HB 1349 and ask that you give the bill a **Do Not Pass** recommendation.

While I understand and respect the desire to ensure fair compensation for patients, I worry that this bill will have unintended consequences that could harm North Dakota's health care system, particularly in rural settings.

Potential Impact on North Dakota's Health Care System

Healthcare providers across the state are already struggling with financial and workforce challenges. If HB 1349 passes, higher liability costs could slow medical innovation, make it even more difficult to recruit and retain skilled professionals, and put essential services at risk. Nuclear verdicts or massive jury awards are rising and driving up healthcare costs at an alarming rate across the county. These verdicts, fueled by social inflation or the shifting attitudes toward litigation are making medical malpractice claims more expensive. As malpractice claims rise, insurance companies will pay out more, driving up premiums for providers. That added financial strain could mean scaling back essential services, raising costs for patients, or, in the worst cases, shutting down, especially in rural communities where resources are already stretched thin.

The Importance of Balance

I recognize that there are different perspectives on this issue, and I do not claim to be an expert in medical malpractice law. However, I do know that maintaining a balanced and predictable system is critical for ensuring that health care remains accessible and affordable in our state.

It is important to keep in mind that non-economic damages, which compensate for pain and suffering, emotional distress, and disfigurement are distinct from economic damages, which cover medical bills, lost wages, and earning capacity. Non-economic damages are the only damages currently capped in North Dakota. Plaintiffs can recover unlimited economic damages seeking any amount of compensation for past and future lost wages and medical expenses.

Other states have reasonable caps in place to help providers remain financially stable while still allowing for appropriate compensation when harm occurs. This bill proposes a major and unprecedented increase to North Dakota's cap on non-economic damages in medical malpractice cases. It would raise the current cap from \$500,000 to \$3 million, making it the highest in the country, surpassing even states like California and New York. Right now, our cap is in line with neighboring states like Montana (\$250,000) and South Dakota (\$500,000), as well as others like Texas, which recently lowered its cap to \$250,000. Without similar protections, North Dakota's health care system could become even more fragile.

A Cautious Approach

I respectfully ask the committee to consider the broader impact of this bill and how it may affect patient access to care, provider sustainability, and overall health care costs. Rather than lifting caps entirely, I hope we can find a balanced solution that protects both patients and the long-term viability of our health care system. For these reasons, I urge you to oppose HB 1349 and support policies that reinforce, rather than compromise, rural health care.

Thank you for your time and consideration.

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