



Protection & Advocacy Project

400 E. Broadway, Suite 409
Bismarck, ND 58501



701-328-2950
1-800-472-2670
TTY: 711



www.ndpanda.org



Senate Agriculture and Veterans Affairs Committee
Senate Bill 2193- January 24, 2025

Testimony of Micah Olson, P&A Position-In Opposition

Mr. Chairman, members of the committee, my name is Micah Olson. I am an attorney at Protection & Advocacy. I am speaking in opposition to Senate Bill No. 2193 in its current form. I am here today to discuss concerns with this bill.

Section 2 (1) (a) requires an individual who provides documentation supporting the need for an assistance animal to be licensed to practice medicine in North Dakota. There are two concerns with this requirement. First, it is not clear from the language if the individual licensed to practice medicine is required to be a medical doctor or if another type of licensed medical professional is permissible. Specifically identifying the types of individuals who can provide documentation will clarify this issue. A licensed counselor, therapist, or psychologist or medical professional other than a medical doctor, such as a physician's assistant or nurse practitioner would be qualified to assess whether an individual requires an assistance animal, and this bill should reflect this. Because of limits in access to medical doctors, it is common for North Dakotans to see qualified medical professionals other than medical doctors. Requiring an individual to establish a new relationship with a medical doctor may be burdensome, possibly requiring individuals who require assistance animals to wait months to obtain the documentation needed to support the need for an assistance animal.

Secondly, requiring the medical professional to be licensed in North Dakota would adversely affect individuals moving to the state who require assistance animals. The requirement would not be feasible for new North Dakota residents, as they are unlikely to have established a medical provider immediately upon moving to North Dakota. Additionally, the individual may not have health insurance immediately upon moving to North Dakota, making it unfeasible to go to the doctor for the required two visits to establish a need for an assistance animal. Also, the need for an assistance animal may not be immediately obvious to a new medical provider, which would cause further delays. A legitimate medical provider in a different state who has an established relationship with the individual should be permitted to provide any documentation needed so the individual to immediately utilize an assistance animal, which may be a

necessary accommodation for an individual. Additionally, an individual may see an out-of-state specialist for medical care. Even though such a specialist would be qualified to assess the need for an assistance animal, this bill would not allow the specialist's expertise to be considered.

Next, Section 2 (3) and (4) prohibits health care providers and individuals in general from misrepresenting an individual has a disability. Protection & Advocacy proposes the word "knowingly" be added to these subsections, as there is a possibility of a health care provider or advocate unintentionally relying on incorrect information when assisting an individual seeking an assistance animal, and unintentionally violating these subsections. Adding "knowingly" addresses the issue of an individual intentionally providing false information, while protecting providers, advocates, or other individuals who are acting in good faith.

Next Protection & Advocacy recommends the definition of "service animal" in Section 1 (4) include miniature horses, as this conforms with 28 C.F.R. § 35.136, a regulation under the Americans with Disabilities Act. North Dakota law should conform to federal law.

Protection & Advocacy also recommends section 2 include, "Documentation is not required when the need for an assistance animal due to a disability is readily apparent." This conforms to guidance from the U.S. Department of Housing and Urban Development. When the need for an assistance animal is readily apparent, it is unnecessary and burdensome for the individual requesting the accommodation. This clarification is also needed because of concerns landlords or management companies may develop policies requiring documentation for other disability-related modifications based on the requirements in this bill.

Protection & Advocacy has the following fact sheets regarding assistance animals and service animals, which may assist the committee.

[Assistance & Emotional Support Animals](#)

[Service Animals](#)

[Housing Rights Service, Assistance, & Emotional Support Animals](#)

[Where Are Service, Emotional Support & Assistance Animals Allowed](#)

Protection & Advocacy supports a Do Not Pass recommendation in its current form.
