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10/2/03
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68

2003 HOUSE JUDICIARY

HB 1083

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1083

House Judiciary Committee

Conference Committee

Hearing Date 1-15-03

Tape Number	Side A	Side B	Meter #
1	x		13-20
Committee Clerk Signature <i>Al Penrose</i>			

Minutes: All members present.

Chairman DeKrey: We will start taking testimony on HB 1083.

Mark Bachmeler, Labor Commissioner: (see testimony) In favor of HB 1083.

Rep. Eckre: Is there a federal definition of identifiable health information, is that in federal law somewhere.

Mr. Bachmeler: It is in there, I have the citation for that law and definition from the Asst.

Attorney General so that we would be sure to apply that. The release of any identifiable information, medical information, about any employee is strictly prohibited by employers, under the American Disabilities Act.

Rep. Eckre: There must be a federal definition of disability, isn't there?

Mr. Bachmeler: Yes, it is the same, it is the ADA definition, applies to specific ADA protections, and also used in all areas of discrimination law to define who is, in fact, a person with disability for purposes of coverage.

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House Judiciary Committee
Bill/Resolution Number HB 1083
Hearing Date 1-15-03

Chairman DeKrey: Thank you for appearing, is there any other testimony in support of HB 1083? Any testimony in opposition to HB 1083? What's your wishes in regard to HB 1083?

Rep. Grande: I move the amendment be passed.

Rep. Delmore: I second.

Chairman DeKrey: Any discussion on proposed amendment on HB 1083. We will take a voice vote.

Voice Vote: 13 Yes 0 No 0 Absent

Chairman DeKrey: Amendment carries. Now we have the bill before us with the amendment. What are your wishes?

Rep. Wrangham: I make a motion to Do Pass with amendment.

Rep. Delmore: Second the motion.

Chairman DeKrey: A Do Pass motion on HB 1083 as amended. Is there any discussion? If not, we will call the roll.

13 YES 0 NO 0 ABSENT DO PASS WITH AMENDMENT Carrier: Rep. Grande

38214.0101
Title.0200

Adopted by the Judiciary Committee
January 15, 2003

VR
1/15/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1083 JUD 1/16/03

Page 1, line 20, replace "Individual medical" with "Individually identifiable health"

HOUSE AMENDMENT TO HB 1083 JUD 1-16/03

Page 3, line 3, replace "Individual medical" with "Individually identifiable health"

Renumber accordingly

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Date: 1/15/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1083

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass w/ Amendments

Motion Made By Rep. Wrangham Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Grande

If the vote is on an amendment, briefly indicate intent:

Voice vote on Amendment - 13 yes, 0 no, 0 absent

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10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
January 16, 2003 9:46 a.m.

Module No: HR-08-0637
Carrier: Grande
Insert LC: 38214.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1083: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1083 was placed on the Sixth order on the calendar.

Page 1, line 20, replace "Individual medical" with "Individually identifiable health"

Page 3, line 3, replace "Individual medical" with "Individually identifiable health"

Renumber accordingly

Yalosta Rickford
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10/2/03
Date

2003 SENATE JUDICIARY

HB 1083

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1083

Senate Judiciary Committee

Conference Committee

Hearing Date 03/11/03

Tape Number	Side A	Side B	Meter #
1	X		44.6 - End
1		X	0.0 - 2.0
Committee Clerk Signature <i>Maria L. Solberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony in Support of HB 1083

Mark Bachmeier - Commissioner, ND Department of Labor (meter 44.8) Read Testimony -

Attachment #1

Sen. Traynor discussed where Mr. Bachmeier got the new language from. It came from one of the two laws and is presently in 1402.4-Human Rights Act. We are leaving it there and adding it to 1402.5 to make it consistent.

Sen. Trenbeath discussed open records aspect-two out of three keeps it open. If Complainant says we have to keep it confidential and the department says no it is not an open record, still the respondent can say its an open record and has to be disclosed. Typically under a conciliation agreement under either of these laws has three parties, all three have to agree. This is in

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10/2/03
Date

Page 2
Senate Judiciary Committee
Bill/Resolution Number HB 1083
Hearing Date 03/11/03

agreement of the Federal Law. (meter 52.) What often happens to help facilitate a resolution to a complaint if the parties can agree to keep the terms of conciliation confidential and prevent them from being disclosed publicly. The disposition of the case would still be public. The case information gathered by the department or documents the departments may produce in terms of a finding will still be public record, but the specific terms that the parties agreed to give resolution may be closed if the parties agree to it. Mr. Bachmeier discussed this at length.

Sen. Dever asked if this was consistent with HIPA? Yes I modeled it after this.

Discussion of what an "exempt" records (meter 55.9) is. Discussed how this is used as a negotiation tool.

Testimony in Opposition of HB 1083

None

Testimony Neutral to HB 1083

None

Motion Made to DO PASS HB 1083 by Senator Thomas L. Trenbeath and seconded by

Senator Dick Dever

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Floor Assignment: Sen. Dever

Senator John T. Traynor, Chairman closed the hearing

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1083

Senate Judiciary Committee

Conference Committee

Hearing Date 03/12/03

Tape Number	Side A	Side B	Meter #
3	X		2.0 - 5.1

Committee Clerk Signature *Maria L Solberg*

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with committee work on the bill:

Motion Made to DO PASS HB 1083 Senator Thomas L. Trenbeath and seconded by Sen.

Dever

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Floor Assignment: Sen. Dever

Senator John T. Traynor, Chairman closed the hearing

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10/2/03
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REPORT OF STANDING COMMITTEE (410)
March 12, 2003 4:04 p.m.

Module No: SR-44-4616
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1083, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends DO
PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1083 was
placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-44-4616

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10/2/03
Date

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2003 TESTIMONY

HB 1083

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10/2/03
Date

John Hoeven
Governor

Mark D. Bachmeier
Commissioner



State Capitol - 13th Floor
600 E Boulevard Ave Dept 406
Bismarok, ND 58505-0340

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E-mail: labor@state.nd.us

Testimony on HB 1083
Prepared for the
House Judiciary Committee

January 15, 2003

Chairman DeKrey and members of the House Judiciary Committee, good morning. For the record, I am Mark Bachmeier, Commissioner of Labor.

North Dakota's anti-discrimination protections are contained in two separate chapters of the Century Code, the Human Rights Act, chapter 14-02.4 and the Housing Discrimination Act, chapter 14-02.5. The two chapters involve virtually identical records but they presently contain slightly different provisions relating to the exempt or nonexempt status of those records. HB 1083 makes the sections of both laws relating to the status of records identical.

The bill also makes one notable substantive change to the status of a particular type of record. We propose in the bill to add that individual medical information may not be disclosed by the department, an exemption that is not presently explicit in either chapter. The primary purpose of prohibiting the disclosure of individual medical information is to ensure that information is not made public that may identify the nature of any individual's disability. Such information is commonly protected from disclosure to prevent harm that could be caused to individuals if a condition or impairment became public. Medical information is often provided to our office as evidence that a complainant meets the statutory definition of a person with a disability and we should be certain to protect that information from public disclosure.

I apologize to the committee for bringing an amendment to one of my own bills but I was informed by someone in the Attorney General's Office after we filed this bill that the correct, standard terminology for "individual medical information" is "individually identifiable health information." Apparently, this terminology has been made the standard in recent federal legislation of which I was not aware. I have drafted the attached amendment to replace occurrences of "individual medical information" in the original bill with "individually identifiable health information" and I would ask you to kindly consider that change as well.

Thank you for your time and consideration. I would be happy to answer any questions you have.

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10/2/03
Date

John Hoeven
Governor

Mark D. Bachmeier
Commissioner



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Testimony on HB 1083
Prepared for the
Senate Judiciary Committee

March 11, 2003

Chairman Traynor and members of the Senate Judiciary Committee, good morning. For the record, I am Mark Bachmeier, Commissioner of Labor.

North Dakota's anti-discrimination protections are contained in two separate chapters of the Century Code, the Human Rights Act, chapter 14-02.4 and the Housing Discrimination Act, chapter 14-02.5. The two chapters involve virtually identical records but they presently contain slightly different provisions relating to the open records status of those records. HB 1083 makes the sections of both laws relating to the status of records identical.

The bill makes just one substantive change to the status of a particular type of record. We propose in the bill to add that individually identifiable health information may not be disclosed by the department, an exemption that is not presently explicit in either chapter. The primary purpose of prohibiting the disclosure of individual medical information is to ensure that information is not made public that may identify the nature of any individual's disability. Such information is commonly protected from disclosure to prevent harm that could be caused to individuals if a condition or impairment became public. Medical information is often provided to our office as evidence that a complainant meets the statutory definition of a person with a disability and we should be certain to protect that information from public disclosure.

Thank you for your time and consideration. I would be happy to answer any questions you have.

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