

2013 HOUSE HUMAN SERVICES

HB 1088

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1088
January 14, 2013
Job # 17152

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relates to State Health Officer written orders.

Minutes:

Attached Testimony #1

Chairman Weisz: Opened the hearing on HB 1088.

Arvy Smith: Deputy State Health Officer for ND Department of Health testified in support of the bill. (See Testimony #1).

3:40 Chairman Weisz: Give me some examples of other orders that could be affected.

Smith: Other infectious diseases like Tuberculosis. We have an outbreak right now in the Grand Forks area. We use that to issue orders regarding testing compliance of medication in dealing with that type of outbreak. It is limited to subsection 12 related to communicable disease. This is in order to give the health officer the authority to deal communicable disease.

Rep. Silbernagel: Has there ever been a Health Officer that is not a physician in the history of North Dakota?

Smith: Prior to the fall of 2011 there have been other non-physicians state health officers. There have been lawyers and business managers.

Rep. Fehr: It is my understanding that this is to clarify that a written order issued under this section is clarifying the state health officer is acting in his official capacity?

Smith: That is correct.

Rep. Fehr: If someone is not a physician they can also issue these orders in their official capacity; is that correct?

Smith: That is correct.

Chairman Weisz: You never had an issue before the immunization?

Smith: Not before as far as someone questioning. This came up because of liability issues. If Dr. Dwelle is acting as a citizen licensed physician, that liability is what covers him in case there was an error. When acting as State Health Officer the state's risk management covers any liability issues. The state risk manager is here to answer any questions.

Chairman Weisz: I assume it would be unclear if Dr. Dwelle was acting as himself or the medical officer.

Chairman Weisz: Asked for any more support and then opposition. There was no response so he closed the hearing.

Chairman Weisz: Took up HB 1088. Does anyone have questions or concerns? I'll be glad to entertain a motion.

Rep. Fehr: Moved a Do Pass.

Rep. Laning: Second.

Roll Call Vote: 12 yeas 0 nays 1 absent

MOTION CARRIED ON DO PASS

Date: 1-14-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1088**

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Fehr Seconded By Rep. Laning

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	A				
REP. SILBERNAGEL	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Muscha

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

REPORT OF STANDING COMMITTEE

HB 1088: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1088 was placed on the Eleventh order on the calendar.

2013 SENATE HUMAN SERVICES

HB 1088

2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

HB 1088
2/18/13
19113

Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to state health officer written orders.

Minutes:

See attached testimony.

Chairwoman J. Lee: opened hearing

Brenda Weisz, Director of the Division of Accounting for the North Dakota Department of Health. She provided testimony in support of House Bill 1088 See attachment #1. (Meter 0.55)

There were no questions.

There was no other testimony.

Sen. Anderson moved to do pass, and **Sen. Larson** second.

Roll call vote:

(Leaving open for Sen. Axness)

Sen. Larson will carry to the floor.

Final vote Do Pass 5-0-0

Date: 2-18-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1088

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment Sen. Larsen

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

REPORT OF STANDING COMMITTEE

HB 1088: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1088 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1088

#1

Testimony
House Bill 1088
House Human Services Committee
Monday, January 14, 2013
North Dakota Department of Health

Good morning, Chairman Weisz and members of the Human Services Committee. My name is Arvy Smith, Deputy State Health Officer for the North Dakota Department of Health. I am here to provide testimony in support of House Bill 1088.

Subsection 12 of Section 23-01-05 of the North Dakota Century Code (NDCC) indicates that one of the duties of the state health officer is to issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. The department has used this language to issue standing orders so that pharmacies can provide immunizations.

NDCC 43-15-01 (1) (a) (2) requires an order by a physician, physician assistant, or nurse practitioner for a pharmacist to provide immunizations. Many pharmacists do not have a business association with a physician so the state health officer, who is currently a physician, has issued standing orders for approximately 65 pharmacists to provide immunizations. If at some future time the state health officer is not a physician, NDCC 43-15-01 may limit the ability for some pharmacists to provide immunizations.

We have been advised by the Attorney General's Office and the State Risk Manager that the authority of the state health officer to issue orders in these circumstances needs to be clarified. The amendment stating "Written orders issued under this section shall have the same effect as a physician's standing medical order" is intended to provide that clarification, allowing the state health officer to issue standing orders that have the effect of a physician's standing medical order, even when the state health officer is not a physician. It also clarifies that orders made by Dr. Dwelle, the current state health officer, are

within the statutory scope of authority of the state health officer, not orders Dr. Dwelle makes as a licensed physician.

Current law allows a non-physician state health officer to issue orders. Note that if the governor does not appoint as state health officer a physician licensed in this state, the governor must appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer.

The amendment proposed in HB 1088 will help maintain increased access to immunizations through pharmacies when the appointed state health officer is not a physician.

This concludes my testimony and I would be happy to answer any questions you may have regarding this bill.

Testimony
House Bill 1088
Senate Human Services Committee
Monday, February 18, 2013
North Dakota Department of Health

Good morning, Chairman Lee and members of the Human Services Committee. My name is Brenda Weisz, Director of the Division of Accounting for the North Dakota Department of Health. I am here to provide testimony in support of House Bill 1088.

Subsection 12 of Section 23-01-05 of the North Dakota Century Code (NDCC) indicates that one of the duties of the state health officer is to issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. The department has used this language to issue standing orders so that pharmacies can provide immunizations.

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within the statutory scope of authority of the state health officer, not orders Dr. Dwelle makes as a licensed physician.

Current law allows a non-physician state health officer to issue orders. Note that if the governor does not appoint as state health officer a physician licensed in this state, the governor must appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer.

The changes proposed in HB 1088 will help maintain increased access to immunizations through pharmacies when the appointed state health officer is not a physician.

This concludes my testimony and I would be happy to answer any questions you may have regarding this bill.